



OFFICE OF THE INDEPENDENT  
POLICE REVIEW DIRECTOR

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# **Investigative Report**

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Complainant: Adam Nobody

Complaint Number: E-201012211139400937

Police Service: Toronto Police Service

Director: Gerry McNeilly

Date: January 13, 2012

<b>Table of Contents</b>
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	<u>Page No.</u>
<b>Executive Summary</b>	3-4
<b>Summary of Complaint</b>	5-6
<b>Code of Conduct Allegations</b>	7
<b>Summary of Civilian Statements</b>	
Complainant	8-16
Witness #1	16-19
Witness #2	19-23
Witness #3	23-24
Witness #4	24-25
Witness #5	25
<b>Summary of Statements – Witness Officers</b>	
Inspector Gerhard Meissner	26-27
Sergeant Jeffrey Alderdice	28-30
Constable John Santarelli	31
Inspector Gerald Cashman	32-35
Detective Michele Dicosola	36-38
Constable Simone Huber	39-40
Special Constable Hayden Ellies	40-41
Special Constable Dale McCurdy	41-42
Staff Sergeant Steven Molyneaux	42-43
Constable Renato Valdez	44

## Investigative Report

	<u>Page No.</u>
Detective Lester Wright	44-46
Acting Detective Sergeant Chris Kirkpatrick	46-69
<b>Summary of Statements – Respondent Officers</b>	
Sergeant Lynn Hughes	70-72
Constable Michael Adams	72-78
Constable David Donaldson	79-84
Constable Daniel Lowe	84-90
Constable Oliver Simpson	90-94
Constable Geoffrey Fardell	95-99
Constable Todd Storey	99-109
Constable Luke Watson	109-114
<b>Investigation</b>	115-116
<b>Analysis</b>	117
Unlawful or Unnecessary Arrest	118-123
Unnecessary Force & Discreditable Conduct During the Complainant's Arrest	123-146
Unnecessary Force & Discreditable Conduct During the Complainant's Processing	146-157
Deceit	157-159
<b>Conclusions</b>	160-163
<b>Referenced Information</b>	164-172
<b>Investigators</b>	172
<b>Supervisor</b>	172

## Investigative Report

### Executive Summary

This investigative report examines the arrest and processing of the Complainant at Queen's Park on June 26, 2010 while he was attending the G20 Summit. It substantiates the allegation of misconduct that Constable Babak Andalib-Goortani, Constable Geoffrey Fardell, Constable Michael Adams, Constable David Donaldson and Constable Oliver Simpson used unnecessary force during the arrest and apprehension of the Complainant. The report further substantiates that the conduct of these officers was discreditable as they acted in a manner that would likely bring discredit upon the reputation of the Toronto Police Service.

The report found that the allegation that the arrest of the Complainant was unlawful was unsubstantiated. Further, the allegations that Constable Storey and Constable Watson used profane, abusive or insulting language or were otherwise uncivil to the Complainant were found to be unsubstantiated. The allegation that Sergeant Hughes, Constable Lowe, Constable Storey and Constable Watson used unnecessary force in their dealings with the Complainant was unsubstantiated.

In addition, the allegation that Constable Storey wilfully or negligently made a false, misleading or inaccurate statement pertaining to the Complainant being charged with the offence of Assault Police is unsubstantiated.

### Summary of Allegations

The Complainant reported that on Saturday, June 26, 2010 he attended the G20 protests at Queen's Park and was observing the police interaction with the crowd. He said he was writing on a piece of Bristol board in the area of the legislature building and started to leave the area when he noticed that the police were "*darting*" after him. He reported that he was tackled by an officer and then five to six officers jumped on his back and assaulted him.

## Investigative Report

The Complainant said he was then taken behind the police lines and turned over to two plain clothes officers who used profane language and threatened to "*beat*" him. He said the officers kicked his feet from under him and threw him down on the pavement between two court vehicles. He alleged that the officers assaulted him. The Complainant advised that upon request he identified himself to the plain clothes officers, but they did not believe he provided his proper name. He said the one officer assaulted him by pushing his foot onto his (the Complainant's) face when the officers confronted him about his name. Eventually the officers determined that the Complainant had actually given his proper name. In addition, the Complainant reported that one of the plain clothes officers repeatedly challenged him to a fight.

The Complainant said as a result of the "*two assaults*" he sustained a broken right cheekbone and a broken nose. He advised that he had to have surgery to repair his broken nose.

The Complainant said he was charged with Obstruct Police and Assault Police and the charges were subsequently withdrawn. He noted that it was alleged that he assaulted Constable Storey on June 27, 2010. However, the Complainant advised that his dealings with Constable Storey were on June 26<sup>th</sup> and that he was at the Prisoner Processing Centre (PPC) on June 27<sup>th</sup>.

The following report provides

- ✦ A summary of the complaint
- ✦ The Code of Conduct allegations
- ✦ Summaries of the statements obtained from the Complainant, Civilian Witnesses, Respondent Officers and Witness Officers
- ✦ The investigative steps that were undertaken
- ✦ An analysis of the statements and evidence that was collected
- ✦ The authorities that were referenced
- ✦ The Director's conclusions

## Investigative Report

### Summary of the Complaint

On Saturday, June 26, 2010 at approximately 3:35 pm the Complainant attended at the corner of College St. and University Ave. to attend the G20 protests that were occurring at Queen's Park. He said that he joined others in a peaceful protest and police in "*riot*" gear were present.

The Complainant started to walk inside Queen's Park and at approximately 4:30 pm he observed police horses running through the crowds on the University loop (northbound lanes). He stated that he then left and purchased twelve cans of beer and attended at a nearby convenience store where he purchased cigarettes and a neon yellow Bristol board.

The Complainant returned to Queen's Park at approximately 5:00 pm and noticed the crowd was on the grassy area in front of the legislature. He said that the crowd was chanting and singing and everything appeared to be in good order. He advised that he was walked up to the front of the legislative building to write on his sign. At approximately 5:05 pm he heard a commotion and saw people running and shouting as police were moving forward.

The Complainant started walking away from the commotion when he observed officers suddenly "*darting*" after him. He heard one officer say "*Get him, Get him!*" He said an officer came from behind him and jumped onto his back, pulling him down to the ground. Then five to six officers arrived and jumped on top of him. He said the officers began pulling his legs and arms down. The Complainant said he was asking what he did and the officers started punching and kicking him in the face and body. The Complainant said the officers told him to "*Shut up, Shut the fuck up*". He was then handcuffed behind his back with plastic zip ties. The Complainant could not say how many times he was struck or who the officers were that tackled him to the ground and "*assaulted him*". He believed the officers involved were members of the Toronto Police Service.

The Complainant said he was taken behind the "*riot police line*", through the paths at Queen's Park towards College St. He said he asked the officers what he was charged with and the officers did not respond.

## Investigative Report

The Complainant was passed off to two plain clothes officers who he now knows to be Constable Luke Watson and Constable Todd Storey. He reported that the two plain clothes officers "yanked" his hands higher behind his back. The Complainant said that as he was walking with the plain clothes officers, one of them said *"We're gonna beat the fuck out of you"*. The Complainant asked the officers not to "beat" him and one of the officers replied *"Too bad. It's happening"*.

The Complainant alleged that Constable Watson suggested that they bring him to a location between two Court vehicles so no one could see him. He advised the other officer did not reply and they continued to walk him between two Police Court Services vehicles. The Complainant said when he arrived between the two Court vehicles one of the officers kicked his feet from under him and threw him down onto the pavement on his stomach. He said both officers then commenced to kick him in his face and body. The Complainant said he pleaded with the officers to stop kicking him.

The Complainant said that Constable Storey stopped kicking him and began to go through his backpack. He said Constable Storey asked him his name and when he told him what his name was; Constable Watson pushed his foot onto his face and told him to *"stop being a smart ass"*. The Complainant told the officers that the name he had given was his real name and asked them to look at this identification. Constable Storey then confirmed through the Complainant's identification that he had given his real name. The Complainant also alleged that Constable Storey cut off his belt with a knife and punctured his beer cans with the knife.

The Complainant said that as a result of the *"two assaults"* he sustained a broken right cheekbone and a broken nose. He advised that he had to have surgery to repair the broken nose.

<b>Code of Conduct Allegations</b>
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**Unlawful or Unnecessary Exercise of Authority, section 2(1)(g)(i) of the Code of Conduct, Police Services Act** – without good and sufficient cause makes an unlawful or unnecessary arrest.

**Conduct During the Complainant's Arrest**

**Unlawful or Unnecessary Exercise of Authority, section 2(1)(g)(ii) of the Code of Conduct, Police Services Act** – uses any unnecessary force against a prisoner or other person contacted in the execution of duty.

**Discreditable Conduct section 2(1)(a)(xi) of the Code of Conduct, Police Services Act** - acts in a disorderly manner or in a manner prejudicial to discipline or in a manner likely to bring discredit upon the reputation of the Toronto Police Service.

**Conduct During the Complainant's Processing**

**Unlawful or Unnecessary Exercise of Authority, section 2(1)(g)(ii) of the Code of Conduct, Police Services Act** – uses any unnecessary force against a prisoner or other person contacted in the execution of duty.

**Discreditable Conduct section 2(1)(a)(xi) of the Code of Conduct, Police Services Act** - acts in a disorderly manner or in a manner prejudicial to discipline or in a manner likely to bring discredit upon the reputation of the Toronto Police Service.

**Discreditable Conduct, section 2(1)(a)(v), Police Services Act** – uses profane, abusive or insulting language or is otherwise uncivil to a member of the public.

**Deceit section 2(d)(ii) of the Code of Conduct, Police Services Act** – wilfully or negligently makes a false, misleading or inaccurate statement pertaining to official duties.



## Summary of Statements – Civilian Witnesses

### Complainant

The Complainant reported that on June 26, 2010, he left his home at approximately 3:00 pm to go "check out" what was happening at G20 events. He travelled around downtown on his bike and on foot. He advised that he saw a protest on College St and stayed a while to observe. He noted that it was a peaceful demonstration and after watching the demonstration for approximately twenty to thirty minutes, he walked along the University of Toronto grounds and came out at the southbound lanes of University Ave. He said when he arrived at Queen's Park he saw a "huge line" of police officers coming through the area. He estimated there were approximately 300 police officers dressed in riot gear. He described how the police "pushed" the crowd by approaching them until they retreated. He said the police would approach the crowd again and the crowd would retreat further back.

The Complainant outlined an earlier incident in Queen's Park where he had a water bottle with him and when the police "came charging" they knocked his water bottle out of his hand. He said that the police refused to return his water bottle to him. He advised that they told him to "get out of here". The Complainant said that when police were coming towards him he did not yell or say anything aggressive or insulting, nor did he make any aggressive gestures. He advised that earlier on he asked police in the line, *"Where -- what are you guys doing? We're not fighting you, you're attacking us. What are you guys doing? Stop approaching us. Where are you pushing us back to?"*

The Complainant reported that after the water bottle incident he proceeded to another area of Queen's Park and sat on a curb where watched the crowd and police. He described seeing police charging their horses through crowds, grabbing people out of the crowd at random, and shooting "gas bullets" at the crowd. He noted that he saw police "attacking" people but he was some distance away from them.

## Investigative Report

The Complainant added that he ran into a friend at Queen's Park and they talked and watched events. Afterwards, he left the area, by bicycle, to go to The Beer Store where he bought a case of twelve cans of Pabst Blue Ribbon. He placed the beer in his backpack and headed back to meet his friend. He said that on the way back to Queen's Park he stopped at a local convenience store, where he bought a sheet of Bristol board and cigarettes. The Complainant reported that he attempted to return to his friend but the police had blocked off that area of Queen's Park. He went around University Ave to a small alleyway where he locked up his bicycle, and then he walked into Queen's Park.

The Complainant advised that when he arrived back at Queen's Park there were a lot of people. He described it as "*a wall*" of people and police. He said he walked around the legislative building to the front doors where the staircase is located. The Complainant explained that he "*set up shop*" in that area and starting making his sign on the Bristol board. As he completed his sign he noticed a line of police officers approaching. He said he had his back to them but when he saw them advancing he grabbed his backpack and the sign and started walking away. He remarked that it seemed to him that the police weren't after him; he thought they were just pushing the line back as they had done previously. He said that as he was walking away he turned around and saw an officer running towards him. He was startled and he started running and the other officers also chased him. He believed that this occurred sometime between 4:30 and 6:00 pm.

The Complainant reported that when the officers were chasing him, he heard one yell out "*Him! Him! Him!*", but his back was towards them and he didn't realize they were referring to him. He said that while they approached him they did not give him any verbal directions or information about what they were doing. He assumed the police line would advance and then move back, or that a small group of officers would run out from the line and "*grab*" someone. He said he tried to get away from that throughout the day when he saw other people being arrested, and he thought he would move away from police again to get out of their way.

## Investigative Report

The Complainant advised that while he was running, one officer grabbed him, tackled him, and they did *"a little roll on the ground."* The Complainant stated this was when the police pinned his arms down and officers were on top of him. He advised that he did not know how many officers were on him at the time because he was face down on the ground.

The Complainant reported that once he was pinned down on the ground he kept seeing *"white flashes"*, which led him to believe that he was being struck in the face. The Complainant stated he did not kick or spit at the officers, nor did he resist them in any way. He explained that he kept turning his head so it wouldn't be hit in the same spot twice. He recalled the police telling him to give them his arms but he could not do so because they had him pinned down on top of his arms. He advised that they repeated *"Give me your arms, give me your arms"*, and he responded *"You're holding my arms; you've got my arms pinned down. I can't move my arms"*. He said they continued to strike him and he described it as *"a bad beating."*

The Complainant explained that he remembered waking up at some point during the arrest and he believed he must have been unconscious for a brief time. When he woke he realized that the police were putting his arms behind his back and put him in plastic handcuffs and then they picked him up. He said he asked the police to make sure his backpack was brought along with him. The Complainant advised that the police did not tell him at that time why he was being arrested or handcuffed. He noted that at this point he could see that his face was swollen, his cheekbone had puffed up, and he could not see out of one eye.

The Complainant explained that there are parts of the arrest that he did not remember. He said it was a *"constant barrage of beating."* He advised that the first time he knew he was hit by a baton was when he saw it on video. He knew he was being hit on or about the head and face, but he didn't see who was hitting him. He said he couldn't see the officers' faces because he was face down and he was seeing white flashes with each hit.

## Investigative Report

The Complainant reported that he carried a red and black backpack to Queen's Park. He said at first that his backpack was empty and then said later he had the twelve pack of beer inside. He thought that the backpack contained a t-shirt, possibly head-phones, and the pen or marker that he used to make the sign. He also had a water bottle with him, which was red with a screw-on lid. He said the water bottle contained mostly water and a little bit of whiskey.

The Complainant reported that once he was placed in handcuffs, the police took his backpack with them and they walked him back to another area where they were approached by two officers in plainclothes who took custody of him. He learned later that these officers were Constables Storey and Watson. The Complainant reported that Constables Storey and Watson did not have any identifying clothing nor did they display any identification to indicate that they were police officers. However, he understood they were police officers when the other officers handed him over to them.

The Complainant described that Constable Storey was wearing a grey shirt with no vest. He remembered that he had a moustache but didn't remember a beard. He described Constable Watson as having long blonde hair and wearing plaid shorts, a white shirt, a black hat and running shoes.

The Complainant advised that Constables Storey and Watson grabbed him by his handcuffed arms and further twisted them behind his back, which caused him pain. He reported that as they walked him towards the court wagons, and twisted his arms behind his back. The Complainant reported that Constable Watson threatened him and he summarized the conversation as follows:

Constable Watson: *"You know, when we get there, we're going to beat the fuck out you, right?"*

Complainant: *"Please don't beat the fuck out of me."*

Constable Watson: *"Oh, now you're being a nice guy, eh?"*

Complainant: *"I'm not being a nice guy. I'm asking you not to beat the fuck out of me, there's a difference."*

Constable Watson: *"No, no, fuck it, we're going to beat the fuck out of you."*

## Investigative Report

Complainant: *"Guys, you already got me, you already got me."*

Constable Watson: *"No man, we're going to beat the fuck out of you."*

The Complainant added, as he was escorted towards the court wagons, the officers indicated they were going to take him between the wagons where no one could see them. He advised that the officers said *"Okay, let's go over there"*, and he replied, *"Guys, come on, this is ridiculous. You already got me"*. The officers reportedly then told him. *"Shut the fuck up. Let's fucking go."*

According to the Complainant, when they arrived at the area between the court wagons, the officers kicked his feet out from under him and he landed on the ground beside a pile of horse feces. He said that while he was still in handcuffs they kicked him in the side and in the face. The Complainant advised that while this was taking place, Constable Watson insulted him and berated him, saying that he stinks and calling him vulgar names such as *"pussy"* and *"a piece of shit."*

The Complainant stated that Constable Storey checked his backpack and searched its contents. He explained that Constable Storey found the twelve pack of beer in his backpack, which was still sealed in its case and the cans were not open. He reported that Constable Storey pulled out a knife and punctured the cans and poured them out. He also said that Constable Storey used that knife to cut off this belt, which was a shoe lace looped through the belt loops.

The Complainant reported that Constable Watson placed his foot on his face and pushed his face into the ground. He advised that while Constable Watson had his foot on his face, he was challenging the Complainant to get up and fight him. The Complainant said he told Constable Watson *"I'm not going to fight you"* but Constable Watson continued to insult him and grind his face into the ground *"full force."* The Complainant said he asked Constable Watson to take his foot off his face, but Constable Watson continued pressing his face into the ground. The Complainant noted that Constable Storey did not threaten him; however he did kick him while he was on the ground. He said he did not try to get up and was not resisting the officers in any way.

## Investigative Report

The Complainant said that the officers asked him his name, which he provided as "*Adam Nobody*". He explained that Constable Watson pushed his foot down on his face even harder and crushed his head into the ground. He said that Constable Watson told the Complainant to "*Stop being a smart ass. Stop being a smart ass*", but the Complainant replied that it was his real name and told him to look at his Driver's License. He said the officers went into his back pocket and found his Driver's License. The Complainant said when the officers realized it was his real name, they said, "*Shit, this guy really is Nobody*", but Constable Watson still didn't take his foot off the Complainant's face, although he did ease up a little.

The Complainant added that when the officers found his security guard license, they threatened to go to his employer and get him fired. He said that Constable Storey saw the security licence and asked him, "*You're a security guard?*" to which the Complainant replied "*Yes.*" He said that Constable Storey then commented "*Well, not anymore you're not.*"

The Complainant explained that at this point the officers picked him up off the ground and Constable Storey informed another officer what the contents of the backpack were and the other officer wrote it down. The Complainant said his photograph was taken with an officer and a white board. He noted that at the court wagons his plastic cuffs were cut off and the court officers put steel handcuffs on him. He said that while his cuffs were being changed Constable Watson stood in front of him, eye to eye, and taunted him, "*Fucking hit me, man, fucking hit me. I want you to fucking hit me.*" He said he replied, "*Come on. I'm not going to hit you*", and he was placed in the court wagon.

The Complainant reported that the police took two photographs of him. He said his first photo was taken at the front of the wagons with an unidentified black officer described as shorter than the Complainant, with light growth beard and short hair. He said the photo with Constable Storey at the side of the court wagon was taken after the first photo was taken.

## Investigative Report

The Complainant said there were thirty or forty uniformed officers in the area of the court wagons and they insulted him while he waited to be placed in the court wagon. He reported that they said things like, "*Oh, look at this fucking idiot.*", "*Look at this fucking asshole.*", "*Fuck you.*" He said they berated and taunted him, in a mocking fashion based on the crowd's chants to police. He said that they told him, "*Whose streets now? You think you're tough, whose fucking streets are you on now, motherfucker?*" He also noted that other prisoners heard the other officers talking to him that way and they commented "*Holy shit, these guys really don't like you*".

The Complainant also reported that as he was being detained, while seated on the ground, he looked up and saw another prisoner was watching him. He said the unknown person shook his head as if to say "*Wow*". The Complainant said this person was in handcuffs and spent time in the same cell as him at the Prisoner Processing Centre. The Complainant pointed out this person in his intake photograph and advised that he was going by the colour of his shirt and was "*pretty sure*" that was the person. (It should be noted that the person pointed out by the Complainant could not be identified as he was in the background of the photograph and his face was not visible.)

The Complainant stated that while on the wagon and bus, and again as soon as he got off the bus at the PPC, he told police and court officers he needed a doctor. He said he screamed out every five minutes to say he needed a doctor because he couldn't see out of one eye. He reported that no one came to help him for approximately ten hours and he was eventually taken to the doctor at the PPC medical unit. He advised that as soon as the doctor felt the welt on the back of his head and tried to see into the swollen eye, he insisted that the Complainant needed to be examined at a hospital. He also noted that he had no water or food in the ten hours waiting at the PPC.

The Complainant was taken to Toronto East General Hospital where he estimated he stayed for six to seven hours. The Complainant was diagnosed with a broken nose and a broken cheekbone. He was provided with a prescription for penicillin and the police officers asked the doctor if they had to stop somewhere to get the medication. The doctor reportedly said that if

## Investigative Report

he was to be released right away then it could wait and he could do it later himself, but if he was going to be held any longer the police would have to get him the medication. The police officers reportedly assured the doctor that the Complainant would be released *"soon."*

The Complainant said he was taken back to PPC where he was held for another thirteen or fourteen hours, without medication, until they took him to court for his bail hearing. He said he was released on bail and police still had not had his prescription filled. He filled the prescription for penicillin after he was released on bail around 1:00 am Monday morning, approximately thirty one hours after he was arrested. He remarked that in the entire time he was at PPC and the hospital he was provided perhaps two cheese sandwiches, which he could barely eat because his cheek bone was broken and it was painful to chew. He noted that he also had two small cups of water during the time he was in custody.

The Complainant reported that he was not informed of his charges until sometime in his eleventh hour in jail. He explained that when he was between the court wagons, one of the officers, possibly Constable Storey, gave a code number to the other officer doing the paperwork to describe the reason for arrest. The Complainant said he asked what that meant and Constable Storey told him to *"shut up."* He stated he wasn't given his rights to counsel until he booked at PPC.

The Complainant reported that an unidentified booking sergeant at the PPC informed him that he was charged with Assault and Obstruction of the Peace. He said he replied *"Buddy, look at my face. How are you charging me with assault?"* The Complainant said that after seeing the booking sergeant he had what he thought was a level-3 search; a *"strip-search"* by two male court officers. He said he was never told why he was subjected to a level-3 search. He described a situation in which an officer told him he would be strip-searched but he told them he was already searched. He said that officer didn't believe him and told him to *"Shut up, stop lying."* The sergeant confirmed that he had already been strip-searched and he was not to be searched a second time. He did not know the detective who spoke to him at PPC to advise him of his charges and he didn't know the identity of the booking sergeant.



## Investigative Report

The Complainant reported that after his release he received medical attention for his injuries. He had to have reconstructive surgery on his nose. The broken cheekbone caused pain with chewing and even sleeping on that side. He said that despite having the surgery on his nose, he required follow up appointments to monitor the healing and he still had a little trouble breathing through his nose.

### **Witness #1**

*Witness #1 was interviewed by the SIU (Special Investigations Unit) and the following is a summary of the statement that they obtained from him.*

Witness #1 said that during the day of June 26, 2010 he was watching television about what was going on at the G20 Summit and the damage that was purported as being caused by protesters. He said he decided it would be better to attend Queen's Park and get his information first hand about what was occurring. He advised that it was approximately 5:30 – 6:00 pm when he arrived at Queen's Park.

Witness #1 advised that he had driven his motorcycle to the area and then walked from Harbord St. on the University of Toronto side towards Queen's Park Circle and then down University Ave. He said the crowd had moved south in Queen's Park and it seemed to be like a "concert" where everyone was standing and facing in one direction.

Witness #1 reported that when he arrived the police were lined up at College St. and they were advancing north. He explained that the police were all lined up and "rapping" on their shields in time. Witness #1 stated that everything seemed to be fine until the police started marching their horses up the middle of Queen's Park. He explained that it seemed that they were encircling people and a lot of people started to get nervous. He advised that every time the police would move, people would run in all directions.

## Investigative Report

Witness #1 said what *"sparked"* him to get his video camera out was when he observed a woman in a wheelchair who was coming up a walkway and the horses ran by "really close" to her. He stated that it was *"relatively dangerous"* and there didn't seem to be much regard for the fact that she was in a wheelchair. Witness #1 advised that he started videotaping and it wasn't long after that that he was encircled by police horses.

Witness #1 reported that the police started to advance north towards the Queen's Park legislative building. He outlined that he observed *"a lot of action with police"* where there was groups of officers, five to ten across and four to five deep that would push their way out quickly into the crowd. He explained the front row would take a *"defensive position"* and block everyone and overrun a few people. He said the back ranks would then come out and *"grab"* somebody out of the crowd, *"pin him down, tie him"* and *"pull him back behind the line."* He said the ranks would then draw back again and the whole line would move forward.

Witness #1 said that there didn't seem to be any *"rhyme or reason"* as to whom they were *"grabbing"* and it seemed more like a *"strategy to show force."* He advised that the police advanced in this same manner until they reached the legislative building and when they could go no further they started to push people to the sides.

Witness #1 outlined that he was on the west side of the legislative building and the police lined up facing west and started to push forward. He advised that when the police arrived at the edge of the stairway of the legislative building they stopped so that other officers could file in and fill up space between the building and the end of their line. Witness #1 stated that the Complainant was standing to his right and that everything seemed *"really relaxed."*

Witness #1 advised that once the police had everyone lined up they started to move forward again. He described the situation as *"really volatile"* as the police movement would go from *"completely slow to very aggressive"* and then go back to slow again. Witness #1 said he was videotaping and he observed an officer point at the Complainant and utter a verbal command. He advised that he couldn't say exactly what the command was. He advised that the command *"triggered"* almost an entire row of police officers *"to break and start running."* He stated that

## Investigative Report

he moved his camera back to capture what was occurring and was getting ready to run when he clicked his camera off in a "*panic*." He explained that he wanted to put his camera in his pocket so he didn't lose it.

Witness #1 said when he realized that the focus was on the Complainant he turned his camera on again. He advised that there was a lot of shouting from people who were upset about the Complainant's treatment as he was knocked to the ground. Witness #1 stated that the police line advanced around the Complainant.

Witness #1 outlined when the police first pointed to the Complainant, the Complainant had his backed turned to the police and didn't seem to be aware of what "*was happening*" and that he was the "*target*" of the police's "*aggressive advance*." Witness #1 explained that his video showed that the Complainant was starting to clear out of the area and when he looked over his shoulder he realized that the police were targeting him and he stepped up his pace; "*running*." However, by the time he started to run there was a police officer who had both hands on the Complainant's shoulders to "*wrestle*" him to the ground. He advised that was when his first video ended.

Witness #1 explained in the four seconds between the first video that recorded and the second video began the only thing that occurred was that more officers were able to get closer to the Complainant and "*tackle*" him to the ground. He said his second video started at the point where the police finally brought him down to the ground and arrested him.

Witness #1 said he observed punches, kicks and a lot of pulling. He estimated that three punches were thrown at the Complainant by the same police officer. He believed that one of the officers had a hold of the Complainant's leg and was pulling it back in one direction while somebody held onto his head.

## Investigative Report

Witness #1 advised that he had other videos of the activities leading up to the arrest of the Complainant. Witness #1 advised that on June 26<sup>th</sup> he did observe protesters throwing items at the police and speculated that it was a "brick." He said he observed this after the Complainant was arrested and did not observe the Complainant throw anything at the police.

### Witness # 2

Witness #2 advised that on June 26, 2010 he and his friends arrived at Queen's Park via the Wellesley St. bridge, which is located on the west side of Queen's Park; the road leading into Hart House Circle. His friends were colleagues from the University of Toronto Students' Union, where he worked in Events and Sponsorship. He noted they were a group of four or five people who were originally part of the Canadian Federation of Students contingent. He said he was there to protest peacefully.

Witness #2 explained that he and his friends had been with a march that travelled along Queen St. W. They took a rest at a café and saw on the news that there was a burning police car just south west of their location. He said that they wanted to get away from the area where it was safer. He added that they went to Queen's Park to get away from the "chaos" on Queen St. W. and he and his friends were under the impression that Queen's Park was a designated safe place to gather.

Witness #2 reported that when they arrived at Queen's Park at approximately 5:30-6:00 pm there were a lot of people gathered and more coming north-west from Queen's Park south. He said it was apparent that the police were advancing towards the protestors. He saw a lot of protesters, photographers and video-graphers, and some people who were clearly journalists. He noted that there were clearly people who were dressed like those who had been causing trouble earlier, and they weren't being arrested. He said the vast majority of people in the crowd looked like students, "*regular young people.*" He estimated that there were "*thousands*" of people there. He saw police at the centre area of south Queen's Park and they were in the line coming in a north-west direction. He noted that there was a "*big wall*" of police "*marching along the road*" and more police between that line and Queen's Park building. These officers were dressed in riot gear and they had shields, and some were in regular uniform with helmets

## Investigative Report

and face shields. Witness #2 described the scene as "*confusing*"; he didn't know what the police were trying to do at that point. He said that at first it seemed like the police were just trying to clear some space at the south side of the building but it became apparent that they were just going to keep pushing people back until they left. Witness #2 stated that if he had heard an order or request to leave the area, he would have left but the police continued to advance on the crowd without providing any direction or announcement to leave the area; the police kept pushing the crowd up around the west side of the legislature building.

Witness #2 advised that he was just watching what was taking place and was confused about where they were supposed to go or what they were supposed to do. Witness #2 said he and his friends remained in the area for about five or ten minutes. He had his video camera with him but he wasn't filming because there was nothing happening. He described the scene as "*people just standing around, confused, a lot of people asking questions to the police, not getting any responses.*" Witness #2 described the crowd as angry, noting there was "*a lot of animosity*" towards the police. He said a lot of people were yelling and swearing, but he didn't see any indication of violence or aggression that was a danger for the police. He noted that he did not observe the crowd throwing objects at the police.

Witness #2 said he first saw the Complainant when he was standing on the lawn, on the south-west area of Queen's Park within the south-west corner of the grounds. The Complainant was slightly north-east of him by perhaps fifteen metres to his left. Witness #2 outlined that the Complainant had a very distinctive bright sign, and it was the sign that caught Witness #2's attention. He noted that the Complainant was "*pretty close*" to the line of police officers. He said the Complainant was standing fairly close to him, on his left, when suddenly he saw the Complainant running and the police chasing him. He explained that he did not see what, if anything, occurred prior to the police chasing the Complainant and had no knowledge as to what might have provoked the pursuit. He explained that from what and who he saw, there were no signs of aggression towards police or any imminent violence or destruction about to occur; he was standing there and suddenly people were running across the grass. Witness #2 said he suddenly saw ten or twelve officers running from his left to his right, and then he saw

## **Investigative Report**

police "*pile on someone*". Witness #2 said that was when he took his camcorder from his pocket and started filming.

Witness #2 advised that he zoomed in on an officer who had the baton. He said the officer lifted up his mask and walked to the right and yelled something to the people in the crowd but he didn't hear what the officer said. Witness #2 said he deliberately and very carefully tried to keep the camera focussed on that officer. He explained that he tried to record the officer's face and the officer standing after he got up from hitting the Complainant on the ground. Witness #2 observed the police pick the Complainant up and take him away.

Witness #2 described that the officers who interacted with the Complainant were wearing police uniforms and that they wore face shields. He said there were other officers who were dressed in full riot gear who made a line in front of the other officers who were on the ground with the Complainant.

Witness #2 recalled that the Complainant seemed to be running when police "*tackled him*". He explained that he focussed his filming on one officer because he noticed through the officer's short sleeves that his arms were visible and he could see that the officer's arms were moving in a synchronized movement back and forth and he was holding something. He said he assumed the officer was holding something like a baton so he zoomed his video camera in on that area and then stayed on the officer. Witness #2 described that the video shows the officer holding some sort of baton or stick and when he gets up and walks around the Complainant there is a clear view to see what he was holding. He advised that he knew the officer had been striking the Complainant with the stick or the baton.

Witness #2 was not able to state with certainty what area of the Complainant's body was struck. He noted that he believed, based on the way the officers were holding the Complainant down, that the baton was hitting the Complainant and not any other officer or other person. Witness #2 said he did not see any other officers strike the Complainant.

## Investigative Report

Witness #2 could not say how many officers were on top of the Complainant during the incident, because some were holding him down and some were standing. He said it was a brief struggle, estimating that from the time he first saw the Complainant until the incident with the Complainant on the ground was perhaps one minute or one and a half minutes. Witness #2 reported that he did not see any injuries to the Complainant when police picked the Complainant up off the ground. He also did not see any injuries to police officers during or after the incident.

Witness #2 remarked that it seemed to him that the Complainant was being held to the ground "*pretty securely*" and he did not observe any attempts by the Complainant to strike any of the officers; however the Complainant did try to run away from the police when they were chasing him, but when he was on the ground the Complainant did not seem to be resisting. He did not see the Complainant attempt to bite any of the officers. He did not hear any directions to the Complainant while he was on the ground and he did not hear the Complainant saying anything to the officers, but explained that there was a lot of noise happening in every direction so if something had been said, he probably wouldn't have heard it. The last time he saw the Complainant was when the police walked him away. Witness #2 reported that he did not see any bruises or facial injuries on the Complainant at that point.

Witness #2 advised that he came to learn the Complainant's identity months later when he read a story on the Toronto Star's website. The story spoke of a YouTube video of someone being tackled by police; he watched the video and he recognized the whole scene. He went to his computer and located his video and realized it was the same incident. Witness #2 explained that he when he realized that his video was significant to this incident he spoke to some media outlets, some anonymously. He also spoke with the Special Investigation Unit investigators (SIU).

Witness #2 remarked that he was angered by what he saw at Queen's Park and with this incident. He commented that after being removed from the event for some time and from the intensity of what he witnessed, he believed that a situation such as that would be "*incredibly intimidating*" for the police if their usual responsibilities included tasks such as traffic violations.

## Investigative Report

He said that being in front of a large angry crowd would trigger a lot of adrenaline that could manifest itself in terms of unwarranted aggression. He said he could see how emotions could "*get the better of you*" and he believed that's what happened in this situation.

Witness #2 summed up his statement by stating that he thought what happened at Queen's Park, and with the Complainant, was not a failing of any one individual to do their job or in a less than in a "*perfectly stellar*" manner in the circumstances, but what happened with the Complainant was a result of people, police and protesters not making good decisions. He said he was angry with "*Black Bloc*" protesters who discredited legitimate protests by thousands of peaceful people when they vandalized and damaged the city and carried out violent acts against police. He said he was "*furious*" with Black Bloc "*...for how they provoked an unnecessary response from the police but, you know, you can't really lay blame in these situations, because it is just crazy and it's a situation that no-one can really be prepared for, especially if you have to be one of the ones that – one of the people that are responsible for trying to, you know, ensure peace and order in a very order-less situation.*"

### Witness #3

*Witness #3 was interviewed by the SIU (Special Investigations Unit) and the following is a summary of the statement that they obtained from him:*

Witness #3 advised that sometime during the evening of June 26, 2011 he was at Queen's Park to see what was going on. He believed that he was just south of the parliament buildings and said that he wasn't at Queen's Park to cause trouble; he was there to see what was going on.

Witness #3 reported that the "*riot police*" started marching west out of the south end of Queen's Park. He said he was approximately fifty feet from the police, walking backwards with his bicycle and filming the police at the same time. He stated that he was filming the police moving people out of Queen's Park and filming the police horses.



## Investigative Report

Witness #3 advised that off to the side he heard a commotion and when he turned there was a group of approximately seven or eight "riot police" arresting a man (the Complainant) "fairly violently" on the ground. Witness #3 said that there was an officer with a baton "smashing with it" and who may have been kicking or punching. He explained that events occurred some time ago and couldn't remember exactly what occurred. He said he saw the police rolling "the guy over and grabbing him". He stated that the officers were getting closer to him so he stopped filming and got out of the way.

Witness #3 explained further that there were "eight riot officers around him (the Complainant)", which he felt was "a little unnecessary" and that is why he looked over. He said the police were putting a lot of effort into arresting the Complainant and he felt it was interesting.

### Witness #4

*Witness #4 was interviewed by the SIU (Special Investigations Unit) and the following is a summary of the statement that they obtained from him.*

Witness #4 advised that On June 26, 2010 at approximately 8:00 pm he and his wife had walked to the south end of Queen's Park where they observed a wall of policeman with shields and helmets. He said the police were on the far south side of the street and he and his wife remained on the north side.

Witness #4 said they were watching what was going on when the police started to bang their shields with their batons and move towards him and his wife. He reported that they moved away attempting to keep their distance from the police. Witness #4 reported that as they were walking away one policeman came rushing by him and pushed him out the way. He said this policeman went towards a group of policemen who were gathered around a person he presumed was the Complainant. He said another policeman had also pushed his wife out of the way with his shield.

## **Investigative Report**

Witness #4 said other than the taunting of police officers, he and his wife didn't see or hear anything out of the ordinary. He explained that protesters were taunting the police as he and his wife were walking away from the police.

Witness #4 said it came as a "*complete surprise*" that the police were running towards them. He advised that because of the contact his wife had with the police officer she was "*quite disturbed*" and "*afraid*"; she was "*adamant*" that she wanted to leave the area. Witness #4 stated that he did not see the arrest of the Complainant. He advised that his wife would not be able to add to what he had stated.

### **Witness #5**

*Witness #5 was interviewed by the SIU (Special Investigations Unit) and the following is a summary of the statement that they obtained from him.*

Witness #5 advised that he is an independent photojournalist and he attended the G20 Summit in Toronto to cover the protests. He said he was in attendance at the G20 Summit on June 26, 2010 and he marched along with the protesters through the downtown core taking hundreds of photographs.

Witness #5 said that sometime in the afternoon the protesters headed to Queen's Park and he witnessed a few arrests. He explained that the police moved in towards the Park and dispersed the protesters. He advised that up until "*sundown*" the protesters were moved to what he believed was Bloor St. and it seemed that the protests were over so he decided to head home. Witness #5 stated that he did not witness the Complainant's arrest.

The Special Investigative Unit (SIU) investigators went through a series of photographs with Witness #5 and he identified one photograph that he had taken during the G20 Summit. In addition, the SIU investigators showed him videos taken at the G20 Summit and he identified himself as being in some of the videos.

**Summary of Statements – Witness Officers**

**Witness Officer #1 – Inspector Gerhard Meissner #178 – Toronto Police Service**

*Inspector Meissner's statement summary was taken from the relevant portions of two interviews that he provided OIPRD investigators in relation to other public complaints. Inspector Meissner consented to the use of these statements for this complaint.*

Inspector Meissner has been with the Toronto Police Service since 1985 and he has been with the Public Order Unit since its official inception in 1987. He said he is a qualified Critical Incident Commander - Level Two and is nationally accredited with the National Incident Commanders Working Group. Inspector Meissner said he is currently the second in command of the Public Safety Unit.

Inspector Meissner said for the G20 Summit he was the Group Commander for Public Order Unit – Group Four. He said there were units under his command from Toronto, Montreal, Barrie, York and Peel. He said he also had an Obstruction and Removal Team assigned to him. Inspector Meissner said he reported directly to Inspector Neadles who was at the Major Incident Command Centre (MICC).

Inspector Meissner said that intelligence information leading up to the G20 Summit was "somewhat sparse" as Toronto was not the original location for the G20 Summit. He said it was quite clear in April or May that much of the attention that was originally expected to be directed at the G8 Summit in Huntsville could be considered relevant to Toronto. He said in particular they were alerted to a number of groups, "not terrorist in nature", that were amassing to attend the G20 Summit. He said there was information that they could expect attacks on the police and they could expect firebombs.

## Investigative Report

Inspector Meissner said the role of the Public Order Units was essentially to assist in facilitating a peaceful protest. He said their function was to provide support and that they were not the front point of contact with the public. He explained that when it comes to a point where there is an escalation of violence or the matter was beyond the scope of uniform officers, they could make a request to the MICC to have public order officers attend to assist them.

Inspector Meissner said the Long Range Acoustic Device (LRAD) was used for communicating with the police on the line and communicating with protesters or a crowd of people. He said they found the use of the LRAD, for the most part, to be a prudent course of action that enabled the police to clearly communicate with large crowds. He said it was clear in the police community that if they were to use force or move into a crowd as a Public Order Unit that there was a requirement that they make every effort to communicate with the crowd. He said the LRAD was assigned to him and Staff Inspector Whittle. Inspector Meissner said that there were five previously recorded transmissions prepared in both in English and French. He said he could also use the LRAD to convey a message that was not previously recorded. He said approval from the MICC had to be received prior to using the LRAD.

Inspector Meissner said that on Saturday, June 26, 2010 he was called to Queen's Park Circle. AT 5:49 pm he operated the LRAD making "*a couple*" of warnings to the crowd. He said he took over command of dispersing the crowd at Queen's Park at approximately 8:00 pm.

Inspector Meissner advised that the crowd that was encountered at Queen's Park Circle included people that had been engaged in the damage on Yonge St. earlier and they had reason to believe "*Black Bloc*" members were in the crowd. Inspector Meissner said bottles, bricks, sticks and placards were being thrown at the police by members of the crowd at Queen's Park. He stated that there were attacks on the police line and there was a considerable amount of resistance from the crowd. He outlined that there were also people in front of the police line that were not engaging the police.

## Investigative Report

### **Witness Officer #2 – Sergeant Jeffery Alderdice #5046 – Toronto Police Service**

Sergeant Alderdice advised that he has been with the Toronto Police Service since December 1995. He said he is currently a patrol sergeant at 22 Division. Sergeant Alderdice said during the G20 Summit he was a member of the Public Safety Unit, which was tasked with crowd control at large demonstrations.

Sergeant Alderdice outlined that there was advance intelligence about certain elements such as the "*Black Bloc*" and various other organizations that had a previous history of violent behaviour. He said they had specific officers that were detailed for such things as obstacle removal. He said the police were prepared for Molotov cocktails, projectiles, human chains and other similar tactics.

Sergeant Alderdice said on Saturday, June 26, 2010 he attended a briefing at 5:30 am and the officer in charge gave them their assignments for the day. He said his team was detailed to the US Consulate to set up barriers in anticipation of a large protest that was to take place. He reported that his team had various assignments in the downtown core of Toronto. Sergeant Alderdice reported that he believed his team consisted of eight officers.

Sergeant Alderdice advised that on June 26, 2010 at 12:35 pm he received information from his officer in charge to begin staging at Queen's Park, specifically on University Ave. in the southbound lanes where it intersected College St., as there was to be a large protest at that location.

Sergeant Alderdice said his team arrived on scene at approximately 2:00 pm and they parked their vehicles slightly south of the intersection and they started walking north on University Ave. towards College St. He reported that his team came under "*fire*", as projectiles such as bottles, rocks and golf balls were thrown at them. He advised that he was struck by a golf ball that he felt had been fired from a "*slingshot*". Sergeant Alderdice said his team formed a line that they call a "*fence line defence*" across College St. where it intersects University Ave. preventing people from going southbound on University Ave. He estimated that there were approximately

## Investigative Report

five hundred people in the crowd at Queen's Park and under one hundred officers present. Sergeant Alderdice believed the LRAD (Long Range Acoustic Device) was being used but could not remember the substance of the announcement.

Sergeant Alderdice explained that when an individual was identified as having committed a criminal act, the officers would open ranks and a four-man arrest team would advance and affect the arrest and bring the arrested person back behind the lines. He said the police lines would then close and the arrested person would be turned over to uniformed officers for processing.

Sergeant Alderdice advised that he remembered the Complainant because he was wearing a very distinctive t-shirt. He said that the events would have taken place when his team originally arrived at Queen's Park and that the Complainant was *"basically antagonizing the crowd to attack the police"*. He outlined that the Complainant would move towards their lines, taunt his officers with insults and hand gestures trying to engage his officers. Sergeant Alderdice explained that he could not recall exactly what the Complainant's actions were, but knew he was definitely an instigator and that he was causing a commotion. He said none of his officers engaged the Complainant and remained professional and they stayed on their line.

Sergeant Alderdice said that the Complainant was pre-occupied with a red container which was at the side of the road. He explained that there was a red cylinder that looked like it might have been aluminium and the Complainant was attempting to get back to that item. Sergeant Alderdice said the Complainant was told to stay well back of the police lines, but he kept approaching the officers to get at this container. He said he deemed that the Complainant's actions were somewhat *"odd"* and they wouldn't let him retrieve the container. Sergeant Alderdice had one of his officers secure the container.

## Investigative Report

Sergeant Alderdice said he examined the contents of the container and found that it contained a clear liquid, which smelled either of kerosene or something of the nature of a white fuel that is used to put in a camping stove. He said it was certainly a flammable liquid that was contained within the container. Sergeant Alderdice explained that, in his opinion, the Complainant was "*definitely arrestable*" as he had knowledge of the canister and its contents.

Sergeant Alderdice advised he remembers singling out individuals to be arrested and it was possible that he pointed out the Complainant to be arrested. He advised that he did not see the Complainant's arrest take place. Sergeant Alderdice reported that after the Complainant was in police custody he spoke to Constable Storey and told him to preserve the red container and that he believed it could be some type of incendiary device. He said he told Constable Storey that the Complainant had knowledge and possession of the container at some point and that in his opinion the Complainant brought the container for an illegal purpose at a public gathering and he was "*arrestable*" for that.

Sergeant Alderdice explained that he spoke to Constable Storey in the southbound lanes of University Ave. in Queen's Park Circle. He said he believed the Complainant was in the background towards where the Court Services vehicle was located. Sergeant Alderdice reported that this conversation occurred sometime between 7:00 and 8:00 pm and to his best recollection would be at 7:45 pm. He advised that he did not see the Complainant's face while he was speaking to Constable Storey.

Sergeant Alderdice said he did not use any force in his dealings with the Complainant. Sergeant Alderdice was asked during his interview if he saw Constable Storey and his partner assaulting the Complainant between two Court Services vehicles and he replied that he had not. He further advised that he did not hear officers threaten the Complainant and if he had he would have put a stop to it.

## **Investigative Report**

### **Witness Officer #3 – Constable John Santarelli #65544 – Toronto Police Service**

*Constable Santarelli was interviewed by the SIU (Special Investigations Unit) and the following is a summary of the statement that they obtained from him.*

On June 26, 2010, Constable Santarelli was a member of the Toronto Police Service Public Safety Unit and was assigned to the area of College St. and Queen's Park. He advised he could not recall the time he was deployed to this area. He said he was a member of seven person team, but advised that there were hundreds of Public Safety Officers deployed at Queen's Park.

Constable Santarelli said he was in a line formation facing the crowd and that two members of the crowd stood out. The description of one of these individuals matched the Complainant's description; however he did not know the Complainant by name. He reported that the Complainant was taunting officers and attempted to further incite the crowd at Queen's Park. He outlined that the Complainant was yelling at the crowd *"Don't run; Don't be afraid of the police"* and telling the police to *"fuck off"*. Constable Santarelli reported that the Complainant said *"he's going to kick our heads in"* and others in the crowd should do this to.

Constable Santarelli advised that the Public Safety Officers were moving forward to push the crowd away from University Ave., as they were attempting to disperse the crowd. He said that they were moving the crowd off the street and onto the grass area at Queen's Park and this is where he observed the Complainant.

Constable Santarelli advised that an attempt was made to arrest the Complainant and the other members of the crowd, but every time an arrest team went out to make the arrests they would run away. Constable Santarelli could not advise which arrest team attempted to make the arrests.



## Investigative Report

### **Witness Officer #4 – Inspector Gerald Cashman #2562 – Toronto Police Service**

Inspector Cashman advised that he has been with the Toronto Police Service for 32 years and he is currently the second in command at 22 Division. He outlined for the G20 he was a Public Order Unit Commander and had approximately forty-five officers in his unit.

Inspector Cashman said as a Unit Commander he received intelligence information regarding the "*Black Bloc*" and their tactics, including the way they would operate with Molotov cocktails. He outlined that there was information that the "*Black Bloc*" would use weapons of opportunity, which could be bricks, sticks and whatever they could make use of. He advised that he received information relating to the potential of "*squirt guns*" being turned into "*flame throwers*". He said that there was information that they would attempt to draw police officers into the crowd. He explained there was all kinds of information about protesters employing various tactics in an attempt to take the police away from the job they had to do.

Inspector Cashman stated that the role of the Public Order Unit at the G20 Summit was to keep the peace. He explained that they were there basically for crowd control and that they would use an escalation of force if necessary to move the crowd or bring them back to a peaceful crowd.

Inspector Cashman said that on Saturday, June 26, 2010 he would have commenced work early in the morning. He said his team was assigned to attend Queen St. W. He outlined that there was a labour protest march that was going to take place and their function was to guard the intersection of Queen St. W. and John St. He said he deployed a line of Public Order officers across the top of Richmond St. W. just below Queen St. W. at approximately 9:30 – 10:00 am.

Inspector Cashman advised that the crowd came down to their location and at some point the crowd turned on them. He said there was "*Black Bloc*" present and they tried to confront the police, which resulted in the police pushing up against them. Inspector Cashman explained at the beginning the crowd was just shoving, pushing and chanting that they were peaceful protesters and to let them go through; however, they were pushing against the police shields.

## Investigative Report

He went on to describe the actions of the crowd outlining the violence and aggression directed towards the police at this location. In addition, he described the damage that was caused in that area.

Inspector Cashman advised that police vehicles were being set on fire at one point. He received information that Toronto Police Headquarters was being attacked by the "*Black Bloc*" and they were deployed to that location along with officers from another Police Service. He said after they completed their deployment at Police Headquarters they were directed to go to Queen's Park.

Inspector Cashman outlined that his team attended Queen's Park and put a line across College St. and then walked down College St. towards Queen's Park. He advised that his team was still deployed in "*hard tac*" and when they arrived at Queen's Park there was an odour as if gas had been deployed. He couldn't say if it was deployed by the police or by someone in the crowd. He reported that as a result of the odour of gas his team donned their gas masks.

Inspector Cashman said his team went into Queen's Park and they joined a line of police officers at the bottom of the Queen's Park. He advised that he was feeling faint from the heat and removed his gas mask as the crowd was passive and sitting and chanting. He explained that when he removed his gas mask he didn't smell gas at that point he had his team remove their gas masks. Inspector Cashman reported they stayed at that location for approximately an hour and half when they were deployed to relieve a group of uniformed officers elsewhere.

Inspector Cashman explained there was a large crowd on the west side on College St. just outside of Queen's Park and they were being held there by officers from a Primary Response Unit. He said his team relieved those officers from the line. He stated that there were also police horses present. Inspector Cashman said he observed some "*Black Bloc*" in the crowd but they were not doing anything that would have caused the police to go into the crowd to get them. He advised that after being at that location for a considerable period of time, his team was deployed back into Queen's Park, towards the east side. Inspector Cashman thought it was approximately 5:00 – 6:00 pm when his team was deployed back into Queen's Park.

## Investigative Report

Inspector Cashman stated that there was a larger and more active crowd when he arrived back at Queen's Park. He said some members of the crowd were saying *"We're not going. Fuck the cops"* and *"We don't have to leave"*. He advised that there were some people that were rushing up to the police, banging onto their shields and then rushing away. Inspector Cashman said they had formed arrest teams that were going to attempt to apprehend some of the agitators. He explained the arrest team would be a team of six officers who go into the crowd and attempt to make an arrest; however when they did this the agitators would run off into the crowd. Inspector Cashman advised that they would not punch out too far into the crowd to affect an arrest as there was a potential for officers to be injured.

Inspector Cashman said the Complainant was one of the agitators in the crowd who was saying to the crowd *"Screw the police. Fuck the police; We don't have to go; We're gonna stand, We're gonna fight"*. He advised he only remembers the Complainant because he was pointed out to him that he had thrown a canister containing gasoline at the police. He said he could not remember who pointed the Complainant out to him. Inspector Cashman stated that he never saw the canister and never saw it thrown. He said he remembered the Complainant because he had a devil on his shirt.

Inspector Cashman advised that arrest teams were trying to apprehend the Complainant, but when they made the attempt he kept *"taking off"* into the crowd and then he would return again. He explained that the Complainant was going to be arrested for Breach of the Peace as that was what they were arresting everyone for. He said he went to obtain assistance of plain clothes officers to assist with the attempt to arrest the Complainant. Inspector Cashman had made the arrangements with a Detective Constable Scott for the assistance of the plain clothes officers. However, when he attend back to his team's location he was advised that they were going to move the whole crowd out of Queen's Park and to *"forget"* about making the arrest. Inspector Cashman in turn advised Detective Constable Scott that the plain clothes officers were no longer required.

## Investigative Report

Inspector Cashman outlined that the police communicated with the crowd telling them they had to leave or they would be arrested. He said he couldn't remember if the LRAD (Long Range Acoustic Device) was used to communicate with the crowd. Inspector Cashman said the Complainant and other people were banging the police shields advising that they were not going to leave. He said they started to incite other people, which resulted in other members of the crowd mimicking their actions. Inspector Cashman stated that at one point the police started using horses to assist with dispersing the crowd. He said Public Order Officers and Primary Response Officers were mixed together and some of the Primary Response Officers would "*punch out*", which resulted in the Public Order officers going to protect the Primary Response Officers.

Inspector Cashman outlined that at one point he remembered watching a crowd of officers go up and arrest a man. He said as the man was being taken down to the ground a "*couple*" members of the crowd came from behind a tree and started to kick an officer while he was on the ground. He advised that his team "*punched*" right up and protected the officers and got the people off them. Inspector Cashman explained there were all kinds of arrests taking place of individuals who either refused to leave or pushed themselves at the police.

Inspector Cashman did not remember seeing the Complainant being arrested. He said he just remembered the Complainant being in custody and being led away. He confirmed that he had possession of the Complainant's backpack, but he does not remember specifically picking it up. He said it appeared from the photographs that he handed the backpack to one of the arresting officers, but he did not recall that either. He advised that from looking at the photographs, the officers who arrested the Complainant were likely Primary Response officers. Inspector Cashman stated that he did not direct anyone to arrest the Complainant other than asking Detective Constable Scott for assistance earlier in the evening. He advised that he did not remember seeing the Complainant being "*unconscious or being hurt*". Inspector Cashman said he stayed with his Public Order Section and did not see the Complainant being turned over to two plain clothes officers.

## Investigative Report

### **Witness Officer #5 - Detective Michele Dicosola #1281 – Toronto Police Service**

*Please note that Detective Dicosola's audio recorded statement to OIPRD investigators became corrupt and the below summary was taken from what the investigators could retrieve from the audio recorded interview and their recollection of the interview.*

Detective Dicosola advised that he has been a police officer for nineteen years and is currently assigned to the Toronto Police Service 22 Division Criminal Investigations Bureau.

Detective Dicosola said that during the G20 Summit he was assigned to a plain clothes Extraction Team to assist front line officers with arrests. He explained that this included taking custody of arrested people from front line officers and moving them to a place of safety where they could be handed off to Court Officers.

Detective Dicosola advised that his Extraction Team consisted of six officers, which included Constable Storey and Constable Watson. He said his team commenced work at approximately 7:00 am on June 26, 2010 and worked until approximately 1:00 am the following morning.

Detective Dicosola said his team arrived at Queens Park at approximately 5:00 pm and assisted with arrests until approximately midnight. He described the events at Queens Park as being "fluid". He explained there were many individuals who were protesting peacefully and there were others who were committing unlawful criminal acts. He said that there were members of the crowd throwing projectiles at the police and he described the crowd generally as being "unruly". Detective Dicosola estimated that there were five to ten thousand people in attendance.

Detective Dicosola reported that his first interaction with the Complainant was when he observed Constable Storey and Constable Watson walking towards him with the Complainant. He said that Constables Storey and Watson each had hold of an arm of the Complainant and were walking him towards the court vehicles. He reported that the Complainant was handcuffed behind his back with plastic zip ties, but had did not know if his arms were twisted.

## Investigative Report

Detective Dicosola advised that he did observe injuries to the Complainant's face, but could not give a detailed description of them, explaining that he was aware that a photograph of the Complainant would be taken, which would capture his injuries. He stated that these injuries occurred before Constable Watson and Constable Storey took custody of the Complainant. He advised that he did not observe Constables Storey and Watson originally taking custody of the Complainant and did not see or hear what occurred that led to the Complainant's arrest. He said he had no information as to what the grounds were to arrest the Complainant for Assault Police were.

Detective Dicosola stated that he noted his observations of the Complainant's injuries in his notebook and on the "*HOT Sheet*" (Record of Arrest). He advised that he learned later that what he thought was a cut on the Complainant's cheek was actually a contact lens. He reported that the Complainant never asked him for medical attention and never said he had injuries that needed to be attended to.

Detective Dicosola asked the Complainant for his name, which the Complainant complied in giving him. He said the Complainant's name was confirmed by Constable Storey. He reported that the Complainant and Constables Storey and Watson were eight to ten feet away from him and he did not hear any conversation relating to the officers questioning the Complainant's name. He was not aware of any conversation about the Complainant's employment as a security guard.

Detective Dicosola advised that he observed Constable Storey and Constable Watson sit the Complainant on the ground and then lay him down in the prone position. He said this occurred in the area of the court vehicles and that no force was used to place the Complainant on the ground. He described the Complainant as being compliant.

## Investigative Report

Detective Dicosola reported that the Complainant did have a backpack in his possession, but was not sure how it was removed from him. He did observe Constable Storey search the Complainant's backpack and observed "*spoiled or leaking*" cans of beer being removed from the backpack. He said he did not observe Constable Storey or Constable Watson puncture the beer cans. He also reported that Constable Storey handed him a container of clear unknown liquid that he believed to be a "*Molotov cocktail*" to a Property Officer.

Detective Dicosola said that Constable Storey and Constable Watson were polite with the Complainant. He explained that the Complainant was not forthcoming with information, but he was not belligerent. He denied the allegations that rude, profane or threatening words or gestures were made towards the Complainant by himself, Constable Storey or Constable Watson.

Detective Dicosola advised that the Complainant was never assaulted in his presence and he would have prevented any assault from taking place if it occurred. He said that the Complainant's allegations that he was "*beaten*" while he was in their custody at the court vehicles were "*completely false*". Detective Dicosola said the Complainant was never kicked in the face nor was his head pushed into the ground while the Complainant was in his presence, which was for the entire arrest processing at the court vehicles.

Detective Dicosola did not recall other officers speaking to the Complainant and being rude to him while his team was processing his arrest. He noted that it was possible that this occurred, but he did not recall any such comments.

Detective Dicosola described that the Complainant's processing occurred in the open and in plain view of other officers and members of the public.

## Investigative Report

### **Witness Officer #6 – Constable Simone Huber #99649 – Toronto Police Service**

Constable Huber advised that on Saturday, June 26, 2010 she was working in a plain clothes capacity and was assigned to a Rapid Response Team (RPT) for the G20 Summit. She said her scheduled hours were from 7:00 am to 5:00 pm.

Constable Huber said when she reported for duty at 629 Eastern Ave., Toronto she was briefed by Detective Sergeant Belgrade #7322 and Detective Sergeant Bishop #4444. She reported that the briefing included information on persons wanted for Conspiracy to Commit Mischief and Breach of the Peace.

Constable Huber outlined that her direct supervisor was Detective Dicosola #1281 and the members of her team were Detective Constable Kevin Hamilton #8471, Detective Constable Martin Rush #8936, Detective Constable Todd Storey #7457, Detective Constable Luke Watson #8430 and Detective Constable John Zivic #9824.

Constable Huber reported that at approximately 5:00 pm her team was directed to attend the area of College St. and University Ave. as the Demonstration at Queen's Park turned "*un-peaceful*" and the "*Black Bloc*" protesters began to vandalize cars and businesses along Yonge St. She advised that Detective Sergeant Belgrade said they would be assisting the Public Order Unit with "*extractions*" and would be taking arrested persons from uniformed officers. Constable Huber explained that they would take the arrested people from a "*safe zone*" to the prisoner transportation vehicles that would in turn transport the arrested people to the Prisoner Processing Centre.

Constable Huber said that uniformed officers and the Public Order Unit directed the crowd at Queen's Park to "*Go Home*" and to "*leave the area*". She advised that she did not know which Command Officers and uniformed officers made the announcements to the crowd. Constable Huber reported that it appeared there were over ten thousand protesters at the crowd at Queen's Park and they were chanting, yelling and waving protest signs and flags.



## Investigative Report

Constable Huber said that uniformed officers maintained a "security line" and did not allow protesters to march down University Ave. She advised that the officers yelled at the crowd telling them to move back, to leave the area and to go home; however the crowd did not move.

Constable Huber advised that her interaction with the uniformed officers was limited to them turning over a person that had been arrested for Breach of the Peace. She said she did not witness the arrest and detention of the Complainant. She stated that she knew that Detective Constable Storey had seized a bottle containing an unknown liquid from the Complainant. Constable Huber explained that her involvement with the Complainant involved her waiting with Detective Constable Storey for a Property Unit van to pick up the bottle that contained the unknown liquid.

### **Witness Officer #7 – Special Constable Hayden Ellies #99270 – Toronto Police Service**

*Special Constable Ellies was interviewed by the SIU (Special Investigations Unit) and the following is a summary of the statement that they obtained from him.*

Special Constable Ellies advised that he was at Queen's Park on June 26, 2010 with a court vehicle. He explained that the court vehicles were parked in Queen's Park Circle, which was a distance away from the protesters. He stated that officers would bring arrested prisoners who was in "flex cuffs" to the court officers along with the HOT Sheet they had filled out. Special Constable Ellies said some of the officers who had prisoners were in plain clothes. He advised that the Court Officers would remove the flex cuffs and replace them with regular handcuffs. He further advised that the Court Officers would obtain the prisoner's name, take their photograph and place them in a Court vehicle. Special Constable Ellies noted in his notebook that the Complainant was one of the arrested persons that he received, but he advised that he did not have any independent recollection of him.

## **Investigative Report**

Special Constable Ellies advised that he observed "*little scrapes and cuts*" to some of the prisoners he received and that these injuries were not major in nature.

Special Constable Ellies said at no time did he observe any officers between two prisoner vans dealing or struggling with a prisoner on the ground. He further stated that at no time did he see any plain clothes officers delivering blows, strikes, punches or kicks to any of the prisoners that he dealt with.

### **Witness Officer #8 – Special Constable Dale McCurdy #99903 – Toronto Police Service**

*Special Constable McCurdy was interviewed by the SIU (Special Investigations Unit) and the following is a summary of the statement that they obtained from him.*

Special Constable McCurdy advised that he was at Queen's Park on June 26, 2010 and he was working with Special Constable Ellies. He said that when they received prisoners from officers, they would obtain the prisoner's information, search them, take their photograph, fill out the property bags and when that was completed they would place the prisoner in a court vehicle. Special Constable McCurdy advised that the officers would fill out a HOT Sheet for the prisoner and give it to his partner who would sign off on the form. He said he would take the photographs of the prisoners. He explained one photograph was taken with the arresting officer and one was taken of the prisoner by himself.

Special Constable McCurdy believed that they dealt with thirteen prisoners on June 26, 2010 who were eventually transferred to a bus. He said they had parked their court vehicle facing Queen's Park on University Ave. along with the other court vehicles. He stated that there were two Court vehicles up front, a court van and a bus that were located behind them.

## **Investigative Report**

Special Constable McCurdy stated that he did not have any recollection of the Complainant. He said he did not recall seeing officers go back between the court vehicles with a prisoner. Further, he said he did not recall seeing any prisoners resisting while they were being brought back to the court vehicles. Special Constable McCurdy said he did not recall seeing any police officers kick, punch, strike or deliver any kind of blow to any of the prisoners before they were turned over to him.

Special Constable McCurdy advised that he did not recall any prisoners being injured or observing injuries to any prisoners. In addition, he said he did not recall any prisoner complaining about an injury or about how they were treated by a police officer.

### **Witness Officer #9 – Staff Sergeant Steven Molyneaux #6083 – Toronto Police Service**

*Staff Sergeant Molyneaux was interviewed by the SIU (Special Investigations Unit) and the following is a summary of the statement that they obtained from him.*

Staff Sergeant Molyneaux advised that during the evening hours of June 26, 2010 and the early morning hours of June 27, 2010 he was in charge of one of the booking areas at the Prisoner Processing Centre located at 649 Eastern Ave., Toronto.

Staff Sergeant Molyneaux said that at approximately 1:40 am on June 27<sup>th</sup> he was in trailer #7 at the Prisoner Processing Centre and two Court Officers brought the Complainant before him. He reported that the Complainant was paraded by Constable Valdez, who was a "runner" for his trailer. Staff Sergeant Molyneaux advised that he also had a booking officer, Constable Berger #1355, with him.

## Investigative Report

Staff Sergeant Molyneaux explained that the Complainant stood out because of his name and he had questions about the Complainant's identity. He said the Complainant was paraded in front of him on the charges of Assault Police and Obstruct Police and as a result he was going to be held for a show cause hearing. He reported that he authorized a level three search of the Complainant. Staff Sergeant Molyneaux described the Complainant as being fairly quiet and "*subdued*".

Staff Sergeant Molyneaux noted that both the Complainant's eyes were swollen and bruised and he had visible scrapes to one of his forearms. He advised that the Complainant complained of blurred vision in his left eye and requested to see a doctor. Staff Sergeant Molyneaux explained that they had a doctor on site and made arrangements for the Complainant to see that doctor after they completed the booking process. Staff Sergeant Molyneaux could not confirm if the Complainant actually saw the on site doctor. He advised that the Complainant did not make any accusations or complaints against any police officers.

Staff Sergeant Molyneaux said that he went through the Complainant's property because the form that had been filled out was a mess and he wanted to account for all his property. He advised that he had all the property itemized and then the two Court Officers #90433 and #90280 escorted the Complainant out of the room.

Staff Sergeant Molyneaux noted that they could not identify the Complainant's arresting officer of the Complainant was as badge number #10924 which was listed as the arresting officer number did not exist. He said this posed a problem for him because he could not get an injury report and use of force report completed if in fact they were required. He said that as a result he spoke to Detective L. Wright who was processing prisoners and advised him at the very least an injury report was required for the Complainant.

Staff Sergeant Molyneaux said that after the "*parading*" of the Complainant was completed he did not see him again.

## **Investigative Report**

### **Witness Officer #10 – Constable Renato Valdez #8908 – Toronto Police Service**

Constable Valdez advised that on June 26, 2010 he was working in uniform at the Prisoner Processing Centre, 629 Eastern Ave. Toronto from 6:00 pm to 6:00 am. He advised he was assigned to work with Staff Sergeant Molyneaux #6083 and Constable Berger #1355.

Constable Valdez reported that at 1:57 am he received the Complainant from two male Court Officers #90433 and #90280 and learned from the paperwork for the Complainant he was being charged with Assault Police. Constable Valdez said he observed that the Complainant had very slight bruising to his eyes. He said that the Complainant was paraded in front of Staff Sergeant Molyneaux and Staff Sergeant Molyneaux authorized a level three search.

Constable Valdez advised that the two male Court Officers were waiting outside of the room where the Complainant was paraded and he handed the Complainant over to them to be searched. He said that he followed the Complainant and the Court Officers to the designated search rooms. He said the two male Court Officers found a cloth necklace as a result of the search of the Complainant and that he took possession of the necklace, sealing it in the Complainant's property bag. He advised Staff Sergeant Molyneaux of the results of the search and this concluded his involvement with the Complainant.

### **Witness Officer #11 – Detective Lester Wright #4672 – Toronto Police Service**

*Detective Wright was interviewed by the SIU (Special Investigations Unit) and the following is a summary of the statement that they obtained from him.*

Detective Wright advised that on June 27, 2010 he was working at the Prisoner Processing Centre on Eastern Ave. in Toronto with Constable Lane. He said that the officers in charge were Inspector Franks and Detective Sergeant Brown and he was advised that they were to process Breach of the Peace charges and other criminal matters. Detective Wright explained that he was not originally scheduled to work at the Prisoners Processing Centre and had been called in due

## Investigative Report

to the number of arrests that were made. He stated that the first file he was given belonged to the Complainant.

Detective Wright explained that he received a plastic envelope that contained an arrest sheet, a HOT sheet and a photograph of the Complainant. He outlined that the paperwork indicated that the Complainant was arrested for Obstruct Police, Assault Police and an "*explosive device*". He said the paperwork also indicated that the Complainant had facial injuries and he observed in the photograph that the Complainant had injuries to his face.

Detective Wright said he went to locate the Complainant to determine his identity. He advised that he believed the Complainant was in a "*pen*" with two other prisoners. He outlined that he asked the Complainant a number of questions relating to his identity. Detective Wright reported that the Complainant requested to go to the hospital due to his injuries. Detective Wright advised that the Complainant had been arrested at 8:00 pm and it was 2:00 am when he was speaking to him. He said that the Complainant did not make any allegations against any officers and he described him as being very cooperative.

Detective Wright stated that he spoke to the Court Officer who was in charge of the area where the Complainant was located; noting that her badge number was 5377 and she was from the Barrie Police Service. He said he advised the Court Officer that the Complainant wished to go to the hospital to have his injuries looked at. He reported that it appeared the Complainant had a swollen cheek. Detective Wright said the Court Officer told him that she would put the Complainant on the list to go to the hospital and he observed her write his number on a list. He advised that he then went back to his office and informed Detective Sergeant Brown that he could not locate an injury report for the Complainant.

## Investigative Report

Detective Wright said he made inquiries in an effort to determine who had "*booked*" in the Complainant in an effort to locate an injury report. He advised that he then took steps to obtain information about the explosive device as there was no information on the paperwork he had received regarding the explosive device. He also explained that he felt there was a "*typo*" relating to one of the officers involved in the Complainant's arrest as badge #10924 did not exist.

Detective Wright explained that he understood that the Complainant was at Queen's Park when he was arrested. He said that the officers that took physical control of the Complainant were not identified, but according to the HOT sheet the officers who transported and "*booked*" him were badge numbers 10924 and 7457. He believed badge #7457 was Detective Constable Todd Storey.

Detective Wright said he noted in the reports that Detective Constable Storey was the officer who was assaulted by the Complainant. He explained that he had asked Constable Storey for his notes and on a subsequent date he was informed by Constable Storey that he was not the officer assaulted. Detective Constable Storey told him it was a Public Order Unit (officer) and that he should modify paperwork to show that it was an unknown officer that was assaulted by the Complainant.

Detective Wright understood the explosive device was a "*Molotov cocktail*" but didn't have any information relating to the charge on June 27<sup>th</sup> and as a result did not enter the charge.

### **Witness Officer #12 - Acting Detective Sergeant Chris Kirkpatrick #7554 – Toronto Police Service**

Acting Detective Sergeant Kirkpatrick advised that he has been with the Toronto Police Service for approximately fourteen years. He has been assigned to the Professional Standards Bureau, Criminal Investigations Unit since 2010. Acting Detective Sergeant Kirkpatrick stated that his involvement in the investigation involving the Complainant was as a result of being assigned to complete the Section 11 investigation under the SIU Regulations for the Toronto Police Service.

## Investigative Report

### ***PowerPoint:***

Acting Detective Sergeant Kirkpatrick prepared a PowerPoint presentation to assist with the identification of the officers involved with the Complainant. He said that he was trying to ensure that all the officers were identified as it was a requirement in the SIU Regulations that the Toronto Police Service identify all the officers involved.

Each PowerPoint slide was reviewed with Acting Detective Sergeant Kirkpatrick utilizing a large television screen and below is what he related:

### ***Slide 1***

Acting Detective Sergeant Kirkpatrick said at the top of the slide where it states "*CRU North 0700 Relief*" there is an excerpt from the deployment sheets for the G20 Summit. He advised that the names that are listed within the table beginning with the sergeant and then the respective constables were the unit that Constable Andalib-Goortani was assigned to. He outlined that the photographs contained on the slide are the officers' warrant card photographs that are in possession of the Toronto Police Service.

### ***Slide 2***

Acting Detective Sergeant Kirkpatrick said that this slide lists the involved officers. The numbers listed beside each officer's name corresponds to the following slides identifying who he thought the officers could possibly be in each slide. The officers are numbered as follows:

1. Constable Andalib-Goortani
2. Constable Adams
3. Constable Donaldson
4. Constable Simpson
5. Constable Fardell
6. Constable Lowe

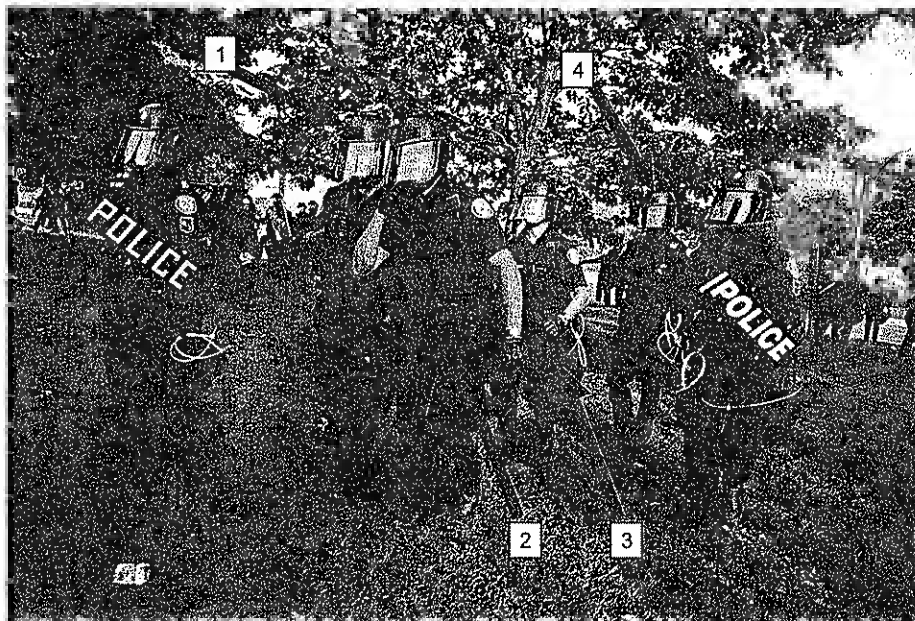


## Investigative Report

7. Constable Neale
8. Sergeant Hughes

### ***Slide 3***

CRU Mobile North  
0700 Relief



Acting Detective Sergeant Kirkpatrick said the photograph contained within this slide was on "Flicker" and was taken by Witness #5. He advised that Witness #5 sent copies of the photographs to the Toronto Police Service Professional Standards Investigative Unit.

Acting Detective Sergeant Kirkpatrick explained that by looking at the officer labelled number 1 when compared with other photographs of who he believed was Constable Andalib-Gortani he found that they reasonably matched each other so it was quite possible that the officer labelled number 1 was Constable Andalib-Gortani.

He stated that the officer identified as number 2 could depict Constable Adams. He advised that in the subsequent interviews of Constable Adams he admitted that he was the officer labelled number 2. Acting Detective Sergeant Kirkpatrick explained that in another photograph there was a watch on the left wrist of the officer believed to be Constable Adams and in other

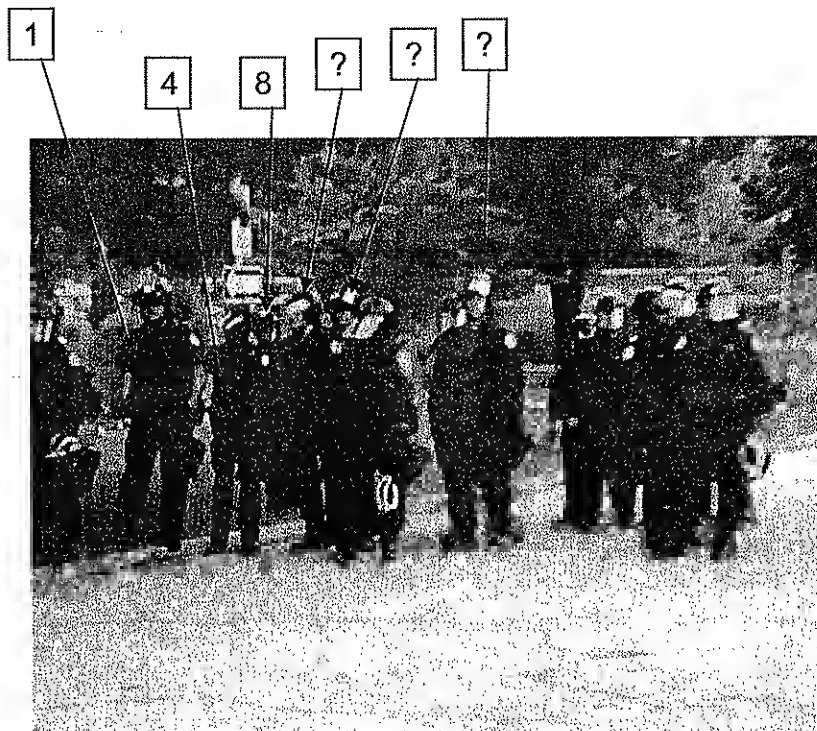
## Investigative Report

photographs of the Complainant's arrest there were matching elements such as the watch and other details that led him to reasonably believe that it could be Constable Adams. He said in slide number four you can see a watch on the wrist of the officer.

Acting Detective Sergeant Kirkpatrick stated that he was not involved in the actual investigation of this matter and he can only reasonably suggest who the officers might be. He said that he could not comfortably say in criminal court who the officers were unless there were clear photographs that he could use for comparison. He explained that he was not at the incident that day and he did not have the entire knowledge of the incident in the investigative files that were in possession of the OIPRD and the SIU.

Acting Detective Sergeant Kirkpatrick said that he believed the officer labelled number 4 was Constable Simpson.

### ***Slide 4***



## Investigative Report

Acting Detective Sergeant Kirkpatrick advised that this photograph was taken from a YouTube video and is quite blurry. He said the video would have taken place just prior to the incident involving the Complainant. He said the video depicts officers that look similar in appearance to the officers depicted in slide 3. He said the one difference is the officer depicted as number 8. He said this is a smaller stature officer whom he believed to be a female officer and quite possibly was Sergeant Hughes. He said the question marks for the other officers were as a result of him not having other photographs to identify the officers.

### Slide 5



Acting Detective Sergeant Kirkpatrick said that this photograph was obtained from the same YouTube video that slide 3 was taken from. He advised that based on other photographs it is a possibility that the officer labelled number 1 is Constable Andalib-Goortani and the officer labelled number 8 is Sergeant Hughes. He explained that it was only a possibility that number 1 was Constable Goortani because the photographs were taken from a video and they were "*a bit grainy, a bit sketchy*". He said the body type was similar to Constable Andalib-Gortani.

## Investigative Report

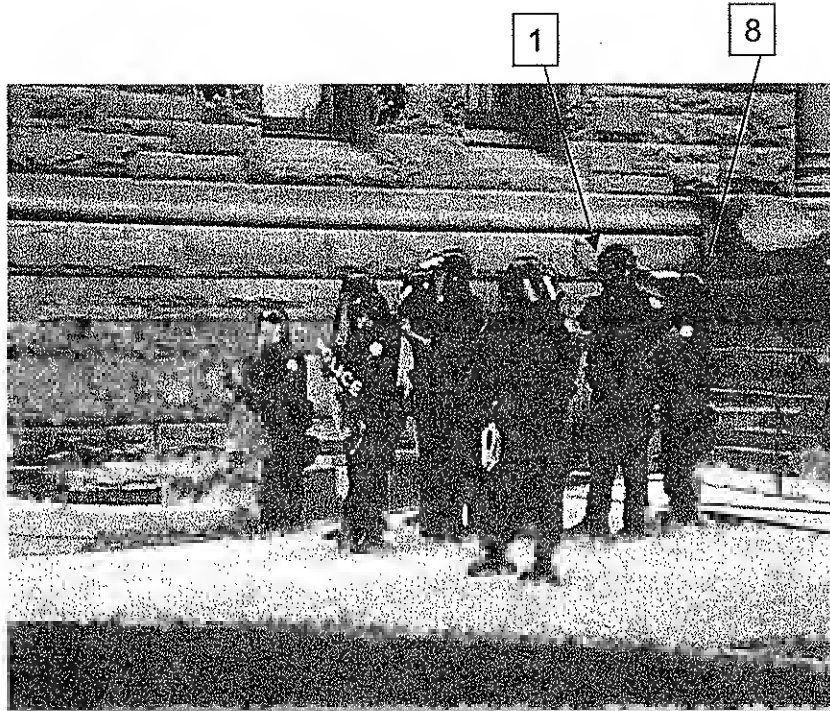
### Slide 6



Acting Detective Sergeant Kirkpatrick said that this photograph was taken from a YouTube video. He explained that when looking at the officer labelled number 8 you can see a yellow object down around the waist. He said it is a bit blurred but the Toronto Police Service sergeants are the only officers issued with Tasers and that led him to believe the person in the photograph was a sergeant and the smaller stature led him to believe the officer was a female.

## Investigative Report

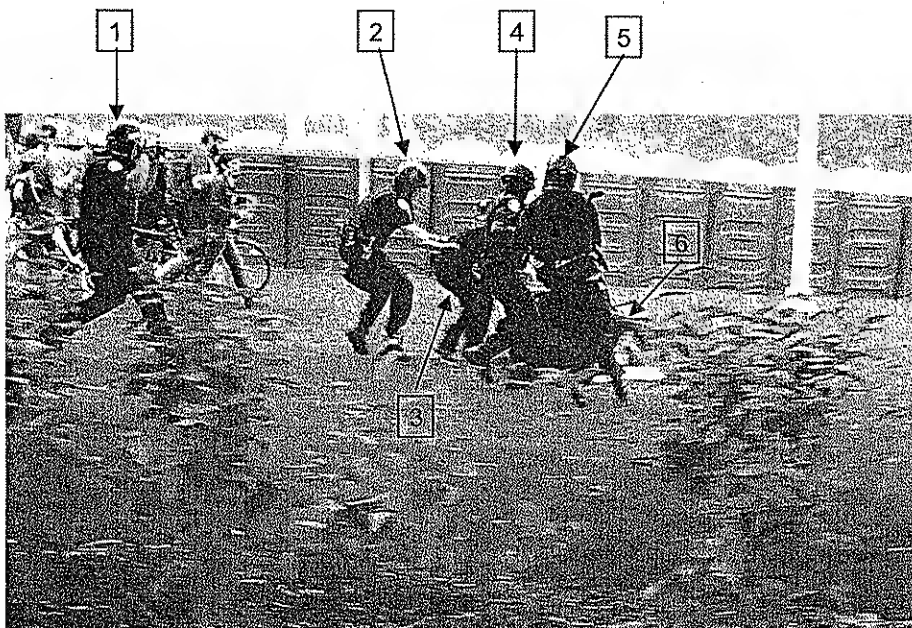
### Slide 7



Acting Detective Sergeant Kirkpatrick said this was the same photograph as slide 6, but was depicting the same two officers from a different angle.

**Slide 8**

**NOBODY**



This slide is a photograph that was taken from a video supplied by the SIU.

Acting Detective Sergeant Kirkpatrick said that he believed the officer labelled number 1 was Constable Andalib-Goortani.

Acting Detective Sergeant Kirkpatrick stated that the officer labelled number 2 was Constable Adams. He said that there was a carabiner, a small clasp, on his belt next to his firearm. He said that the carabineer was in other photographs with Constable Adams where his face was not obstructed by his helmet.

Acting Detective Sergeant Kirkpatrick said the smaller stature male officer labelled number 3 could possibly be Constable Donaldson. The officer labelled number 4, who appeared to be a dark skinned officer, could possibly be Constable Simpson. He advised that there were further identifications of the officer labelled number 5 whom he believed to be Constable Fardell.

## Investigative Report

Acting Detective Sergeant Kirkpatrick outlined that the officer labelled number 5 had his back turned and the front of his face was completely obscured, but he pointed out that it appeared his epaulette on his top right shoulder was flapping. He said the officer labelled number 6 appeared to be wrapped up with the Complainant at the bottom of the photograph. He stated that from this photograph he could not tell what is taking place on the ground.

### Slide 9

#### NOBODY



Acting Detective Sergeant Kirkpatrick said that this photograph is a still photograph taken from the video supplied by Witness # 1.

Acting Detective Sergeant Kirkpatrick was advised that there were two officers labelled number 3 and he explained that this was an error and the officer near the head of the Complainant should have been labelled number 5. He directed the investigators to the previous photograph to demonstrate the error. He agreed that the officer labelled number as number 3 who was kneeling on the ground in proximity to the dark skinned officer should have been labelled number 5.



## Investigative Report

He said that officer number 1 (Constable Goortani) was drawing a baton and number 3 was grabbing at the foot of the Complainant, which is clearer in another video. (This other video was supplied by Witness #3.) He advised that based on all the information the officer labelled number 3 is pulling the legs of the Complainant in what appeared to be an attempt to pull the Complainant forward because there was another officer who was underneath the pile. He said the video from Witness #3 gave a view of what occurred from the other side.

Acting Detective Sergeant Kirkpatrick explained the positioning of the officers referencing their numbers. He advised that Constable Adams was at the bottom of the photograph. He explained that he believed that Constable Lowe is standing up and he is labelled number 6. He believed the officer labelled number 4 was Constable Simpson.

### ***Slide 10***

#### **NOBODY**



He said the photograph in this slide was taken from the enhanced video from the Toronto Star.



## Investigative Report

Acting Detective Sergeant Kirkpatrick said the officer labelled number 1 was referring to Constable Andalib-Goortani and number 8 was the smaller stature officer who was moving in and going to take the Complainant's knapsack.

### Slide 11

#### NOBODY

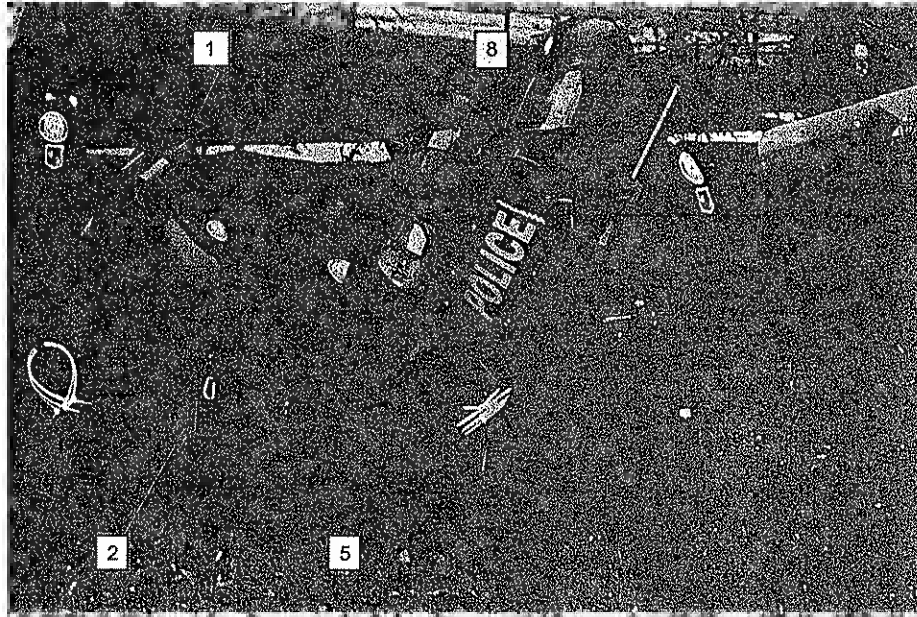


Acting Detective Sergeant Kirkpatrick advised that this photograph in this was taken from the enhanced video from the Toronto Star.

Acting Detective Sergeant Kirkpatrick said that this photograph again showed officers in different positions and pointed out officer number 2 with the carabiner, which was seen in the previous photographs. He said the officer in the photograph that was near the legs of the Complainant is believed to be officer 1 (Constable Andalib-Goortani). Acting Detective Sergeant Kirkpatrick asked that investigators take note of the position of officer 5 (Constable Fardell) because he will be seen in the same position in other photographs as the slides progress.

**Slide 12**

**NOBODY**



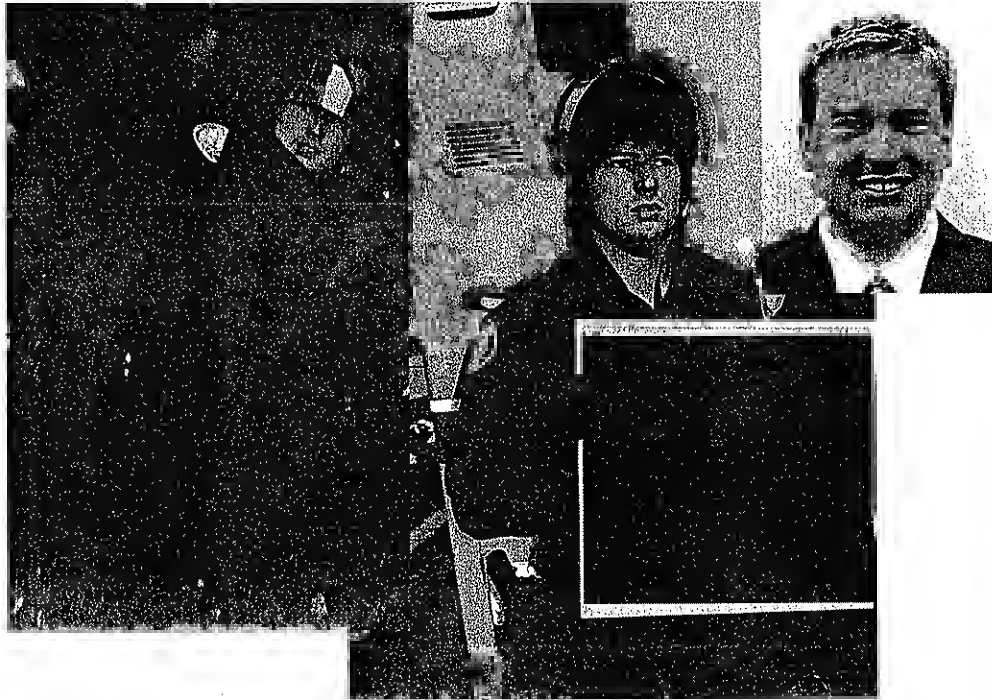
Acting Detective Sergeant Kirkpatrick advised that this photograph came from a citizen who was not interviewed. In addition, the investigators were unable to interview this person because they could not be located. He explained that there was a group of photographs sent to the Toronto Police Service. He said that the photograph gave a clear "*facial shot*" of the officer that is labelled number 5 (Constable Fardell). He noted that in the positioning of officer 5 in this photograph compared to the photograph in the previous slide is from "*more of side view to front view*". He advised that the officer's arm is in the same position as was seen in earlier photographs and his right epaulet is unfastened and the officer's mask is up which gives a clear indication of who that officer is.

Acting Detective Sergeant Kirkpatrick said the officer labelled number 1 (Constable Andalib-Goortani) face is blocked by his hand as he is lifting his visor, but it is reasonable to assume that it appeared to be Constable Andalib-Goortani.

## Investigative Report

Acting Detective Sergeant Kirkpartick advised that officer labelled 8 (Sergeant Hughes) face is concealed by a police shield. However, based on the totality of the photographs that were taken, including another photograph from the series obtained from the citizen that submitted this photograph, he believed the officer labelled number 8 to be Sergeant Hughes.

### Slide 13

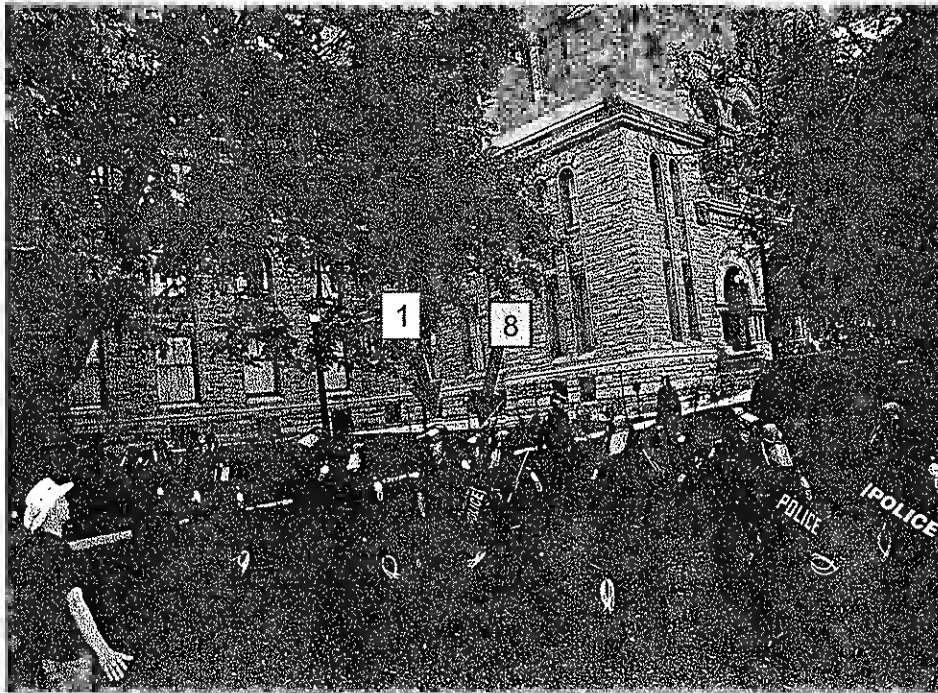


Acting Detective Sergeant Kirkpatrick reported that this slide was comprised of three photographs of Constable Fardell. He said on the far right side of the slide is Constable Fardell's warrant card photograph and the middle photograph depicts Constable Fardell in an arrest photograph taken with another participant at the G20. The third photograph was the photograph from the previous slide. He advised that by comparing the three photographs there is a very strong resemblance *"that would correspond and look closer to that person being Constable Fardell"*. He also noted that Constable Fardell's epaulette was undone in the arrest photograph and in the photograph of him kneeling beside the Complainant. He also advised that the chin strap on the helmet was in the same place. He stated that there were many characteristics that look very similar to Constable Fardell.

## Investigative Report

The investigators asked Acting Detective Sergeant Kirkpatrick if there was any doubt in his mind that it was Constable Fardell in the photograph where he was kneeling near the Complainant's head. He replied that there was subsequent information that Constable Fardell has an identical twin brother who is also a Toronto Police Service officer, but did not believe Constable Fardell's brother was at Queen's Park on that day.

### ***Slide 14***



Acting Detective Sergeant Kirkpatrick advised that this photograph came from a citizen who was not interviewed. In addition, the investigators were unable to interview this person because they could not be located.

He said that this photograph depicts a Public Safety Unit squad that had pushed in front of the arrest of the Complainant and they were taking a defensive line. He advised that behind those officers the arrest of the Complainant was taking place. The officer (Constable Adams) with the carabiner was still on his knees in the lower middle portion of the photograph. He said there was a full photograph of officer 1 (Constable Andalib-Goortani) with his face mask up. He stated that based on the other photographs that he has seen and his warrant card photograph he can reasonably say that he believed that it could be Constable Andalib-Goortani.

## Investigative Report

Acting Detective Sergeant Kirkpatrick stressed that he had never met Constable Andalib-Goortani nor had any interaction with him prior to the incident involving the Complainant.

Acting Detective Sergeant Kirkpatrick advised that he believed the officer labelled number 8 was Sergeant Hughes. He also identified Inspector Cashman as holding the Complainant's backpack.

### ***Slide 15***



Acting Detective Sergeant Kirkpatrick advised that this photograph came from a citizen who was not interviewed. In addition, the investigators were unable to interview this person because they could not be located.

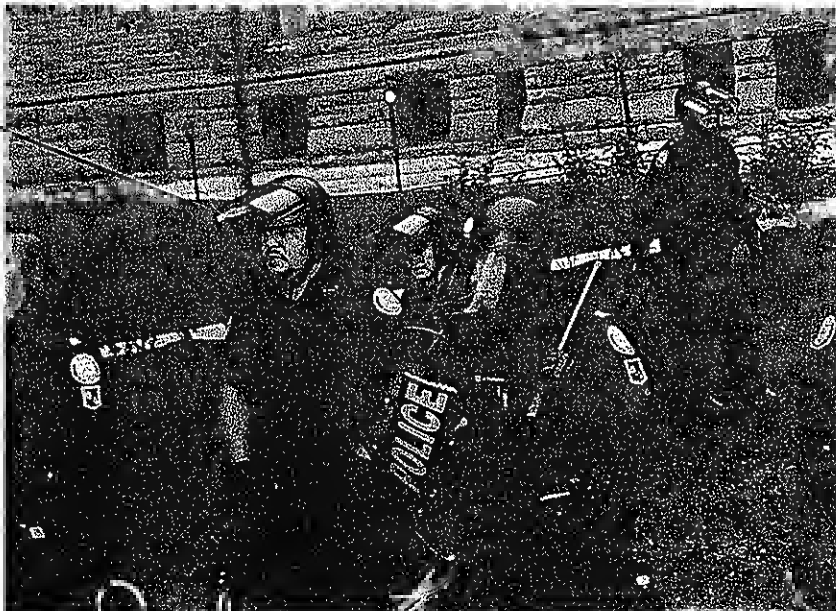
Acting Detective Sergeant Kirkpatrick reported that he could see the Complainant who was identified from previous photographs and from the arrest photograph being led away by police officers. He said that one officer is completely obstructed and the other officer could not be identified.

## Investigative Report

Acting Detective Sergeant Kirkpatrick said he believed that the officer labelled number 8 was Sergeant Hughes. He said that if you look at the back of her helmet there was something hanging like a clasp that was evident in some of the photographs that were previously shown to him.

He advised that he believed the officer he labelled number 2 was Constable Adams as he had compared this photograph with Constable Adams' warrant card photograph. He said the officer labelled number 4 was Constable Simpson.

The investigators showed Acting Detective Sergeant Kirkpatrick the below photograph and he agreed that it was a close up of his PowerPoint Slide 14. He identified Constable Andalib-Goortani as being the officer where the red arrow is pointing. (Please note that the arrow was not in the photograph shown to Acting Detective Sergeant Kirkpatrick.) Acting Detective Sergeant Kirkpatrick advised that when comparing the photograph to Constable Andalib-Goortani's warrant card photograph that it would be reasonable for him to believe that it was the same person.



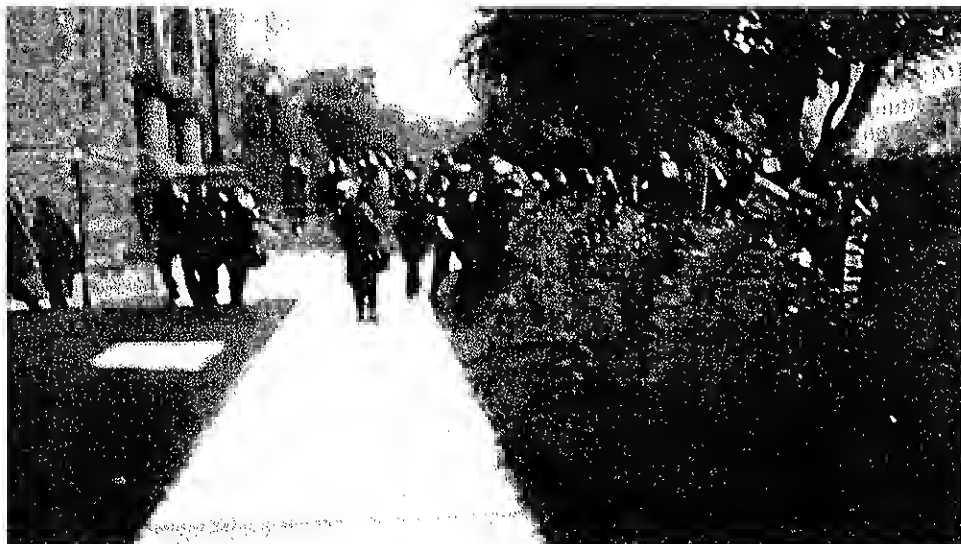
## Investigative Report

Acting Detective Sergeant Kirkpatrick said that the officer that is of a smaller stature and is between Constable Andalib-Goortani and a Public Order officer is Sergeant Hughes. He explained that in an interview with Sergeant Hughes she identified herself as that officer. However, he said that she stated that she had no recollection of the arrest of the Complainant. He further identified Inspector Cashman as the officer who was carrying the red backpack of the Complainant in the back of the photograph.

The investigators showed Acting Detective Sergeant Kirkpatrick frame by frame excerpts from a number of videos obtained in the investigation in order to attempt to confirm the identity of the officers involved.

The first frame by frame video that was shown was identified as MVI\_0405, which was a video taken by Witness #1.

The frame by frame was stopped at frame 139 and Acting Detective Sergeant Kirkpatrick said that it depicted a group of officers that were standing near the area of the front of the legislature at Queen's Park. The Complainant can be seen running from the police and it was evident in the video that a group of officers pursued him.



(MVI\_405\_139.jpg)



## Investigative Report

The frame by frame video was then stopped at frame 178 and Acting Detective Sergeant Kirkpatrick agreed that this was the first officer who came into contact with the Complainant and he believed the officer was Constable Lowe. The investigators pointed out the last officer that was at the left side of the photograph and Acting Detective Sergeant Kirkpatrick said that the officer could be Constable Andalib-Goortani.

Acting Detective Sergeant Kirkpatrick cautioned that Witness #1's video stopped and it missed a very critical portion of what occurred.



(MVI\_405\_178.jpg)

The next first frame by frame that was shown was identified as MVI\_0406, which was a video taken by Witness #1. The frame by frame was stopped at frame 4 and Acting Detective Sergeant Kirkpatrick agreed that it was reasonable to believe that it was almost the same photograph he had in his PowerPoint presentation.

The frame by frame was then stopped at frame 41 and he was asked if he could identify the officer at the front. Acting Detective Sergeant Kirkpatrick asked that the frame by frame be backed up and advised that you can see that the officer's epaulette was flying up as the frame by frame went by and he said it was an indicator that it was Constable Fardell. He advised that he had to be careful because he could not see the officer's face or make out anything with



## Investigative Report

respect to his identity. He stated that *"what we have is reasonable indicators that this could be him"*.

The frame by frame was stopped at frame 73 where it appeared that an officer was crawling out from underneath the pile and Acting Detective Sergeant Kirkpatrick was asked if he believed this was Constable Lowe. Acting Detective Sergeant Kirkpatrick said that it was a possibility, but he said due to the missing time frame in the video he could not be certain. He said in the video supplied by Witness #3 there must be a better photograph as to what occurred, but in this photograph he could not say with any degree of certainty. He agreed that the officer at the front (head) of the Complainant with the long sleeves was believed to be Constable Fardell.

When Acting Detective Sergeant Kirkpatrick was asked if it appeared that Constable Fardell's knee was up on the Complainant, he replied that he could not see what is occurring inside the scrum and the video from Witness #3 gave a completely different appearance of what the officers were doing. He stated that he could not see where the officer's (Constable Fardell) knee was in this video. He explained in this video it appeared that the Complainant was not moving; however in the video from Witness #3 it showed that the Complainant was attempting to get up and attempting to move away from the officers.

Acting Detective Sergeant Kirkpatrick said that it was possible that the officer on his hands and knees with long sleeves could be Constable Lowe getting up from underneath the Complainant. He explained that there were only two officers with long sleeves that were involved with the Complainant and they were Constable Lowe and Constable Fardell.

The investigators continued going through the video frame by frame and asked Acting Detective Constable Kirkpatrick to watch for the Complainant's head. The frame by frame was stopped at frame 116 and he agreed it appeared that the officer who was previously seen on all fours and who was believed to be Constable Lowe, had gotten up off the ground. He advised that he believed it was Constable Fardell at the front (head) of the Complainant

## Investigative Report



(MVI\_406\_116.jpg)

The frame by frame continued and was stopped at frame 217. Acting Detective Sergeant Kirkpatrick agreed it appeared that the Complainant was in this photograph. The frame by frame continued and he was advised that it appeared that the officer's knee had gone into the face of the complainant. Acting Detective Sergeant Kirkpatrick said based on this video he would say that the knee was in the proximity of the face and that he would have to see this photograph along with the video from Witness #3. He explained that the videos show two entirely different scenarios happening at the same time and he could not see what the Complainant's hands were doing. He said that the video does not have any audio relating to what the officers were telling the Complainant.

The frame by frame was stopped at MVI\_0406\_222.jpg.

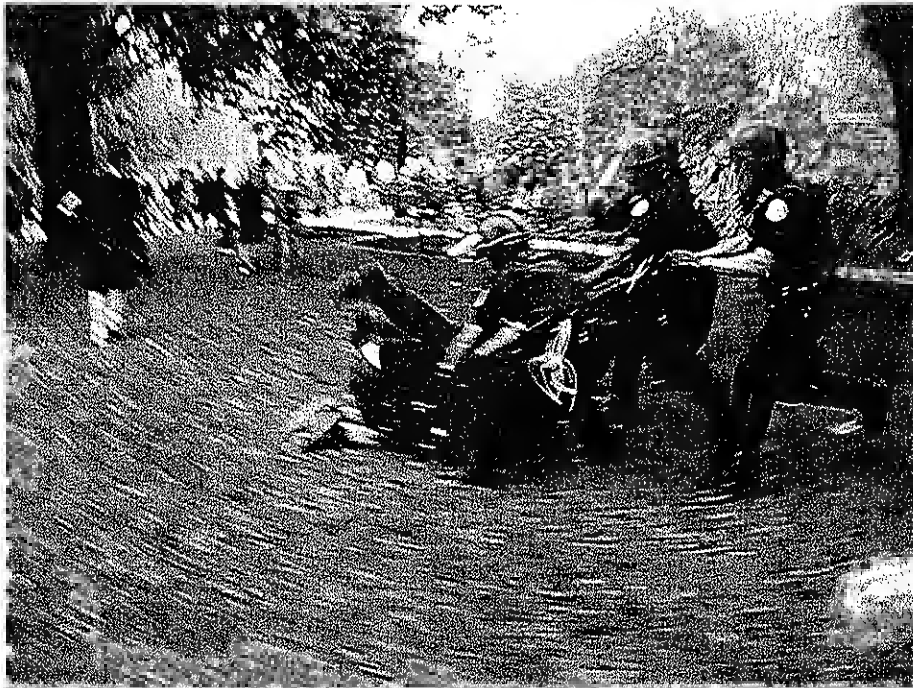
The next frame by frame video that was shown to Acting Detective Sergeant Kirkpatrick was the video that was taken by witness #3. The video was titled MVI\_1557. The frame by frame was stopped at frame 158. Acting Detective Sergeant Kirkpatrick said that at the end of the previous video there was an officer that was attempting to restrain the Complainant from behind and in this photograph there were two people on the ground; one being a police officer

## Investigative Report

and the other person who appeared to be the Complainant. He said the Complainant was either on top of the officer or had fallen with the officer.

The frame by frame continued and was stopped at frame 165. Acting Detective Sergeant Kirkpatrick said that it was clear that the officer turned and he was on his back with his legs in the air. He advised that it appeared that the Complainant was almost on top of the officer or next to the officer. He asked for the frame by frame to be moved along and it was stopped at frame 176. He said that based on the stature of the officer who was first in line it was possible that the officer could be Constable Donaldson. He further identified Constable Simpson and Constable Adams in the photograph. He outlined that frame 185 showed the carabiner that was referred to in other photographs and was consistent with whom he thought was Constable Adams.

Acting Detective Sergeant Kirkpatrick advised that the Complainant can be seen on his knees and the officer was still underneath him. He stated that the only people that could explain what was occurring in the scrum were the officers because you cannot see clearly in the videos.



(MVI\_1557\_176.jpg)

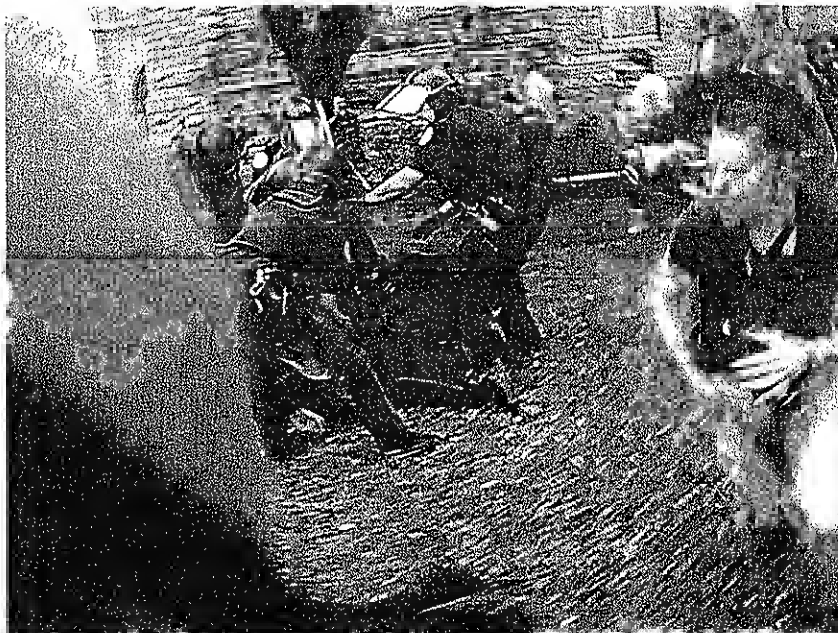
## Investigative Report

The frame by frame continued and was stopped at frame 199. Detective Constable Kirkpatrick advised that the officer with the long sleeves was believed to be Constable Fardell.

The frame by frame continued and was stopped at frame 217. Acting Detective Sergeant Kirkpatrick said that the officer in the top right corner of the photograph was possibly Constable Andalib-Goortani.

The frame by frame was then stopped 237. Acting Detective Sergeant Kirkpatrick was advised that the focus was on the officer farthest right. He said that the photograph illustrated his point that a side by side comparison of the videos, time indexed, would be appropriate as he believed that Witness #1 could be seen videotaping the events from the opposite angle.

Acting Detective Sergeant Kirkpatrick said that he could not tell the investigators who the officer was on the farthest right of the pile in this photograph. He advised that based on the officer's body stature it was possible it was Constable Andalib-Goortani; however he could not reasonably say it was him from the photograph.



(MVI\_1557\_237.jpg)

## Investigative Report

Acting Detective Sergeant Kirkpatrick asked that the frame by frame be stopped at frame 243 and he said it appeared there was movement from the Complainant. He advised that based on his experience he felt that the officers were trying to get the Complainant under control and they were trying to get the officer out from underneath the Complainant.

The frame by frame was stopped at frame 256. Acting Detective Sergeant Kirkpatrick advised that it appeared that there was a group of officers trying to get the Complainant under control and the Complainant was putting himself into the "*fetal position*" or curling up. Acting Detective Sergeant Kirkpatrick said that he believed the officer with long sleeves, who had his shirt epaulette undone on his right shoulder, was Constable Fardell. He could not help with the identification of the other officers in the photograph. He pointed out an officer who he believed could be Constable Adams.

The frame by frame continued and an officer at the top right hand portion of a photograph was pointed out to Acting Detective Sergeant Kirkpatrick. The officer appeared to have his hands at his belt and his baton was extended in the belt. He was asked if he could identify the officer. He said the officer's face was obscured, but he could see there is some hair growth on the face in the shape of goatee that Constable Andalib-Goortani had. He advised that based on the officer's stature it was quite possible that it was Constable Andalib-Goortani.

The frame by frame was stopped at frame 302 where an officer was seen pulling on the Complainant's leg. Acting Detective Sergeant Kirkpatrick believed this officer was Constable Donaldson. He remarked that it appeared that the officers were trying to get the Complainant under control to arrest him.

At frame 339 there was an officer bent down and it appeared that he had his baton extended in front of him. Then the frame by frame was run through from frame 340 to frame 343. Acting Detective Sergeant Kirkpatrick said that it appeared that the baton had moved but he could not tell if it struck the Complainant. He identified the dark skinned officer in the photograph as Constable Simpson.

## Investigative Report

The video titled "*theStar.newFootage*" was shown frame by frame to Acting Detective Sergeant Kirkpatrick commencing at frame 218. The frame by frame was stopped at frame 766 and an officer was pointed out to him. He advised that he could not identify this officer. The frame by frame continued to frame 770 and he was asked if he could identify the officer in this photograph. Acting Detective Sergeant Kirkpatrick said "*no*" and remarked that the whole video was "*very grainy*". He said there were "*certain statures or certain things*" that could be looked at, but he could not with any certainty say who that officer was.



(theStar.newFootage\_770.jpg)

The frame by frame was stopped at frame 808.

Acting Detective Sergeant Kirkpatrick said he thought it was very important to note that there were conflicting photographs and videos that depicted the same events from different angles. He advised that it was very difficult to ascertain everyone's movements and exactly what occurred. He stated that with respect to a lot of the photographs, except for the ones where there are clear pictures of the faces, it was very hard to identify the officers.

**Summary of Statements – Respondent Officers**

**Respondent Officer #1 - Constable Babak Andalib-Goortani #9859 – Toronto Police Service**

Constable Andalib-Goortani declined an interview with the investigators and as result there is no a summary of a statement for him.

**Respondent Officer #2 – Sergeant Lynn Hughes #4229 – Toronto Police Service**

Sergeant Hughes advised that she has been with the Toronto Police Service since September 1990 and is currently a patrol sergeant at 12 Division. She stated that for the G20 Summit she was assigned to "*Mobile Team North T5*". The members of her team were Constable Adams, Constable Donaldson, Constable Simpson, Constable Neale, Constable Phillips and Constable Andalib-Goortani.

Sergeant Hughes said they were briefed every morning about the events and arrests that occurred the previous night, what could potentially occur that day and on intelligence information, which she advised she could not share with the investigators. She explained that the intelligence outlined some of the potential threats to the safety and security of the delegates and citizens of the city.

Sergeant Hughes reported that on June 26, 2010, her shift commenced at 7:00 am and she was wearing her regular Toronto Police Service Uniform. She explained that she also had a helmet, gas mask and ball cap.

Sergeant Hughes said that on June 26<sup>th</sup> there were a series of events occurring throughout the city where cars were being burned, store windows were smashed and people were trying to get officers to render assistance. She reported that her team ended up at College St. and University Ave. She advised that there were approximately thirty-five to forty officers in total at this

## Investigative Report

location and they were told that the "*Black Bloc*" were coming. She said that she observed "*hundreds and hundreds*" of "*Black Bloc*" members coming towards them westbound on College St. Sergeant Hughes advised that when they were told to retreat the crowd was "*attacking everything and anything*". She said the police were heavily outnumbered and were told to run and retreat to Bloor St. north of University Ave.

Sergeant Hughes reported that a unknown Staff Sergeant, believed to be Staff Sergeant Narine, briefed them and they then marched from University Ave. and Bloor St. south to the west side of Queen's Park. She advised that somehow they ended up facing north towards the crowd and stood in line until relieved by a Public Order Unit. She advised that there were thousands of people in the crowd who were very hostile and were throwing sticks, signs and Molotov cocktails at the police.

Sergeant Hughes said that her team was then designated by an unknown supervisor as an Extraction Team where they would "*punch*" through the Public Order lines, "*grab*" a person and bring them behind the police lines. She said they would then hand the arrested person off to "*HOT team*" officers.

Sergeant Hughes explained that there were hundreds of officers across the police line and that the arrest teams consisted of approximately four officers. She advised that it was not always four officers that went out to arrest every person and the number of officers depended on the person's level of resistance and what was occurring at the time. She outlined that when a team of officers went through the line to affect an arrest she would then replace that team with another team of four officers. She advised that the officers were being directed by other officers on whom to arrest. She explained that it was impossible to keep track of her team as they were "*sort of in different places*". Sergeant Hughes reported that they had not received any training as an Extraction Team.

Sergeant Hughes stated that she believed that an unknown officer gave direction to the crowd to disperse. She advised that she did not hear the Long Range Acoustic Device (LRAD) being used.



## **Investigative Report**

Sergeant Hughes advised that she did not remember the arrest of the Complainant and that she never "*touched*" or spoke to him. She stated that she did not recall handling the Complainant's knapsack, but said it would have been common for her to move items out of the way when an arrest was being made.

The investigators showed Sergeant Hughes some photographs and she identified herself and an officer who she advised looked like Constable Andalib-Goortani in one of the photographs.

Sergeant Hughes advised that her notebook outlining her involvement at the G20 Summit could not be found.

### **Respondent Officer #3 – Constable Michael Adams #10086 – Toronto Police Service**

Constable Adams advised that he has been with the Toronto Police Service since August 2008 and is currently assigned to the Primary Response Unit at 31 Division. He said during the G20 Summit he was assigned to work in a mobile team which consisted of eight other officers.

Constable Adams outlined that his mobile team's supervisor was Sergeant Hughes and the rest of the team consisted of Constable Donaldson, Constable Simpson, Constable Andalib-Goortani, Constable Philips, Constable Valencia and Constable Neale. He advised that he was working in uniform.

Constable Adams said prior to the G20 Summit he received the Toronto Police Service on-line portion of the G20 training and he attended a one day course at the Toronto Police College. He advised that the training was mostly based around crowd control techniques and "*things*" they could be confronted with at the G20, which was based largely on the "*Black Bloc*" tactics. He further stated that he was also trained in the use of his gas mask and riot helmet, which were not standard equipment prior to the G20.

## Investigative Report

Constable Adams believed that his team work from 7:00 am to 7:00 pm every day and that was their shift on June 26, 2010. He said they were briefed every morning at the Hyatt Hotel, which consisted of intelligence information that was gathered the previous night. He advised that they were informed in the morning of June 26<sup>th</sup> of a parade that was going to take place later in the afternoon. Constable Adams explained that it was to be a large parade consisting of many protest groups who would be marching from Queen's Park.

Constable Adams reported that at 1:15 pm the parade commenced and his team was assigned to the area of Dundas St. and University Ave. where they lined the street to ensure that the parade would pass straight through and that it would not be held up at 52 Division.

Constable Adams said once the parade passed, his team was detailed to attend at College St. and Spadina Ave. where they were to wait for the parade to loop back and return to Queen's Park. He advised that they formed a semi-circle in the intersection to ensure that no traffic could get through once the parade reached their location. While at this location Constable Adams said he noticed off to the south a large bright light, similar to a flare being shot into the sky. He reported that he heard over the police radio that approximately a thousand "*Black Bloc*" appeared out of nowhere south of their location. He then heard multiple units shouting emergency calls for assistance over the police radio. He said he could hear the officers stating that they were being overrun by the "*Black Bloc*".

Constable Adams advised that his team was detailed to attend at Queen's Park and rendezvous with other officers to be redeployed throughout the city as required. He said his team attended at College St. and University Ave. to support the other officers at that location. He said as they were walking over to College St. and University Ave. one of his team members investigated a man who was carrying a heavy bag. He said the bag was found to contain a wine bottle with a broken seal and a rag wrapped around the top as if it were an incendiary device. Constable Adams said as they were dealing with this man, a call came over the police radio requesting immediate assistance at College St. and University Ave., which resulting in them abandoning the man and running to that location.

## Investigative Report

Constable Adams reported that once they were at the location they formed into lines. He advised that he looked to the east and observed a "sea of black" coming westbound. He explained that the street was full of "Black Bloc" members and they were covering from storefront to storefront coming towards the police lines. He said the MICC advised over the police radio that the "Black Bloc" was coming to their location in very large numbers and ordered them to retreat as it was not safe to be at the intersection. He advised that they were told to run to "Bloor and Avenue Rd." As a result they ran and retrieved their vans and attended at Bloor St. and Avenue Rd.

Constable Adams said when they arrived at Bloor St. and Avenue Rd. they were assigned to form up with Staff Sergeant Narine. He advised that they were directed to put on their helmets and masks; He said they were told that they were going to be marching through Queen's Park, through the "Black Bloc" and rendezvous with the Public Safety Unit. Constable Adams stated they were told that the assembly was now unlawful. He outlined that the MICC told them over the police radio that the "Black Bloc" was in Queen's Park and were removing their disguises, but they were still armed with various items. He stated that they were told that any "suspicious parties" were considered to be extremely dangerous.

Constable Adams reported as they were marching southbound towards Queen's Park he saw sporadic people on the north side of the building and some of them had their faces covered. He explained that he was at the front of the group of officers that were marching south and when they approached the south side of Queen's Park towards the intersection of College St. and University Ave. he saw a large group of people gathered in front of Public Safety Unit lines. He estimated that there were over a thousand people in the crowd. He advised that people were screaming at the officers; they were forming human chains and sitting down to prevent their removal. He said he observed what appeared to be a few leaders of the group calling out to people to confront the police instead of leaving as they were repeatedly being directed to do by officers. Constable Adams said it was clear to him that the crowd was ready to face the police and were not going to leave.

## Investigative Report

Constable Adams said that he began to "*scream*" at the crowd to get back and he directed them to proceed east along the Public Safety Unit lines. He advised that the "*Black Bloc*" formed up against the police formation. He explained that they were "*clenching their fists*", yelling and swearing. He advised that their behaviour could only be described as "*assaultive*" and it was clear they were reading themselves for a fight.

Constable Adams advised that he and other officers continued to order the crowd to move back, but they did not comply. He said he used force to push the protesters back and said that he did use his baton in a thrusting manner while he was ordering them to move back and away from him.

Constable Adams said the protesters would rush at the police and engage the police with "*their own force*". He advised that unidentified people with their faces covered would punch him and other officers and then run away. He said that they held the line until they were relieved by Public Order officers.

Constable Adams reported that while he was behind the Public Safety line he observed water bottles being "*hurled*" at the officers on the lines and people "*cursing*" and "*screaming*" at the police in an attempt to have the officers engage them. He advised that he heard the LRAD (Long Range Acoustic Device) being used by a senior officer and the order was given to the crowd that the assembly was now unlawful. He explained that the crowd was ordered to disperse and told that the police line would be advancing and anyone who did not leave would be arrested.

Constable Adams said he was originally assigned with a group of eight officers. However, at this time they were broken up into arrest teams, consisting of six officers, some of whom were not part of the original team. He advised that they split up into partners and he was partnered with Constable Donaldson. Constable Adams reported that an unidentified staff sergeant advised that anyone arrested would be arrested for Breach of the Peace, Obstructing Justice and Unlawful Assembly.

## Investigative Report

Constable Adams advised that they formed in groups of six behind the Public Safety Unit and moved forward behind them as they advanced towards the crowd. He reported that the crowd continued to ignore orders to leave and threw objects such as Gatorade bottles and rocks at the police. He said that he and Constable Donaldson breached the line numerous times to arrest people.

Constable Adams advised that he followed the Public Safety Unit line in Queen's Park to the southwest corner area of the building. He said there were protesters that were still engaging the police. Constable Adams said he observed his team breaching the Public Safety Unit lines and pursue the Complainant. He advised that he was the second or third officer in line who was chasing the Complainant. Constable Adams stated that he did not know how the Complainant was identified for arrest. He said that when they were pursuing the Complainant they were all yelling *"Stop, stop, you're under arrest"*.

Constable Adams said he did not know the identity of the first officer who made contact with the Complainant. He advised that when this officer made contact with the Complainant, the Complainant turned, faced the officer and engaged the officer. He explained that the Complainant very quickly *"spun the officer, throwing the officer over his back"*. He stated that shortly after the officer landed that he and the rest of the team arrived.

Constable Adams said he grabbed the Complainant around his head and shoulder area in order to take him to the ground and they all went down in a *"heap"*. He stated that he tried to control the area of the Complainant's right shoulder and upper right arm. He said he along with other officers was yelling at the Complainant that he was under arrest, to put his hands behind his back and to stop resisting. Constable Adams said the Complainant was not complying and continued to manoeuvre his arms and *"strike"* at him and other officers. Constable Adams advised that the Complainant was attempting to get up and was attempting to roll. He noted that he could feel thrashing from the Complainant's lower end *"as if he was trying to kick officers"*.

## Investigative Report

Constable Adams explained that the Complainant did not go to the ground easily and that they had to *"take him down to the ground hard"*. He said he was on the Complainant's right extremity and when he was holding the upper portion of the Complainant's arm he felt the lower portion of the Complainant's arm from the elbow down *"grasping at me and trying to strike up towards what would be my hip"*.

Constable Adams reported that the Complainant ended up in a position that was slightly on his stomach and he was attempting to move the Complainant's right arm behind his back so he could be handcuffed by the officers that were behind him. Constable Adams said he put his left hand on the Complainant's right shoulder when the Complainant turned his head and attempted to bite his left hand. He reported that he was wearing gloves and in response to the Complainant attempting to bite him he struck the Complainant *"in the right side of his face"* with his *"hand in a fist"*. Constable Adams said he stopped striking the Complainant after he turned his head in the other direction and was *"no longer going to bite"* him. He advised that he struck him three to four times in the face.

Constable Adams was asked to explain his notebook entries where he described that he struck the Complainant to get his hands behind his back. He explained that he did strike the Complainant on the back of his right shoulder area to obtain compliance. He stated that he struck the Complainant's shoulder three to four times. He advised that he hit the Complainant in the shoulder prior to hitting him in the face.

Constable Adams advised that he did not have his knees on the Complainant. He explained that he kept his knees to the side of the Complainant and he could not have put his knees on him. He stated *"I would have been kneeled right over his right shoulder, so the only place I could have put my knees was on his head and I didn't put my knees on his head"*. Constable Adams said there was another officer near the Complainant's head as he kept bumping his head on the officer's head as they were huddled over the Complainant.

## Investigative Report

Constable Adams said that shortly after striking the Complainant he and other officers were able to get the Complainant's hands behind his back. He advised that another officer zipped tied the Complainant's hands and he was escorted back to the Public Safety Unit Line by another officer. Constable Adams stated that he did not tell the Complainant why he was under arrest and did not hear any other officer inform the Complainant what the reason for his arrest was. He explained that it was *"too hectic of a scene to sit there and explain to him why he's under arrest"*. In addition, he confirmed that the Complainant's rights to counsel were not read to him at the time of his arrest.

Constable Adams advised that he did not observe the Complainant prior to the time that his team pursued him. He said other than Constable Donaldson he did not know who the other officers who were involved in the Complainant's arrest. He advised that he did not observe any of the other officers use any control methods on the Complainant as he was focused on himself and his own safety at the time. He did not observe anyone strike the Complainant.

Constable Adams described the Complainant's behaviour according the Use of Force Model as being *"assaultive"*. He explained that even leading up to his involvement when he turned around and engaged the first officer he would describe the Complainant's behaviour as *"assaultive because he consciously turned and engaged the officer"*. Constable Adams went on to state that when the Complainant attempted to bite his hand, the Complainant was trying to do him harm and described his behaviour at that time as being *"assaultive"*.

The investigators went over some photographs with Constable Adams and he recognized that Constable Andalib-Goortani was one of the officers involved the Complainant.

## Investigative Report

### **Respondent Officer #4 – Constable David Donaldson #10120 – Toronto Police Service**

Constable Donaldson advised that he has been a police officer with the Toronto Police Service since August 2008 and is currently assigned to the 31 Division Community Response Unit. He said that for the G20 Summit he was assigned to Mobile Team #5, which was a Rapid Response Team. In addition, he said he was assigned as a RCMP liaison for a few days at the beginning of the G20.

Constable Donaldson said the members of Mobile Team #5 consisted of their supervisor Sergeant Hughes and Constable Adams, Constable Neale, Constable Simpson, Constable Valencia, Constable Phillips and Constable Andalib-Goortani.

Constable Donaldson advised that on June 26, 2010 he was working in uniform attire and was scheduled to work from 7:00 am to 7:00 pm; however he worked until 2:00 am the following morning. He said his team's duties were to provide uniform support along the parade route and to attend wherever needed.

Constable Donaldson reported that at 1:15 pm the parade commenced at Queen's Park and his team was advised to attend a "traffic point" at College St. and Spadina Ave. Constable Donaldson explained that he was with a number of units that formed a line from the southwest corner to the northeast corner of College St. and Spadina Ave. He advised his team then attended the west side of University Ave. and Dundas St., which was just east of 52 Division.

Constable Donaldson stated that he heard over the police radio that there was smoke in the crowd and the "Black Bloc" members were burning "things". He said the parade passed his location without incident and his team was assigned to attend at College St. and Spadina Ave. for traffic duty. He advised that while his team was at this location they had issues with reporters and civilians who tried to get into the parade route. Constable Donaldson explained that it was an officer safety issue as their backs were turned towards these people and they



## Investigative Report

were *"getting really close"*. He advised that they told the people to *"get back"* but they were not listening to the police.

Constable Donaldson said they were advised over the police radio that the *"Black Bloc members"* had sticks, hammers, bottles, gloves with spikes and other unknown objects in their possession. He advised that he also heard over the police radio that the *"Black Bloc"* members were over a thousand in number. Sometime after that announcement he heard a *"PC assist"* come over the police radio. He explained that the police code for *"PC assist"* was used which meant that an officer was in *"serious trouble"* and he needed *"help right away"*. He reported that the call for assistance came from Queen St. W. and Spadina Ave. and that bicycle units left to attend that location.

Constable Donaldson reported that his team was advised not to attend the location where the officer was requesting assistance and that they were to remain where they were. He said again, an unknown officer *"with distress in his voice"* reported that his scout car was being smashed and burned. He reported that the unknown officer said he was being boxed in by a hostile crowd and that he needed extraction. He advised that his team was told not to respond to the officer's request for assistance and that the Public Safety Unit (PSU) was going to attend.

Constable Donaldson said he continued to hear several *"PC Assists"* over the police radio and that *"Black Bloc members"* were committing property damage throughout the city. He reported that his team was told by Command to stand by and not to engage as the *"Black Bloc members"* outnumbered the police.

Constable Donaldson reported that he continued to hear *"PC assists"* and was advised that the crowd was at Yonge St. He stated that command advised his team to attend College St. and University Ave. to regroup. Constable Donaldson said that they investigated a male who had a backpack on. He reported that inside the backpack they located black clothing, a mask, gloves, goggles and a bottle that had a white liquid substance inside and *"a rag around it"*. He said they were unable to arrest the man because they were required to attend College St. and University Ave.

## Investigative Report

Constable Donaldson explained that while at College St. and University Ave. that he observed a large crowd of "*Black Bloc members*" coming towards them. He said they were advised over the police radio to "*retreat*" and they ran north on University Ave. to Grosvenor St. where they retrieved their van. He reported that they attended Bloor St. and Spadina Ave. where they regrouped with approximately 200 other officers. He said that they came under the direction of Staff Sergeant Narine and were advised to put on their helmets and gas masks. He reported that they were detailed to go southbound to the area that had been taken by the people who had vandalized the area and stolen police equipment. Constable Donaldson explained that they were told that it was an unlawful assembly and to take the ground that the "*hostile group was occupying*".

Constable Donaldson reported that they marched towards Queen's Park and that some of the crowd was dispersing. He said there was still a group remaining and they along with the bicycle units were telling the people to leave. He estimated that there were more than a thousand people still present. He advised that he observed a crowd around the war memorial. He said that these people were wearing masks and goggles. Constable Donaldson stated that they yelled at the crowd to leave, but the crowd threw rocks and bottles at the police and ignored the police commands to leave.

Constable Donaldson explained that as he walked he had his baton out and extended. He said that he observed two men on the ground in an "*assaultive*" position. He advised that one of the males spat on his vest. Constable Donaldson advised that he attempt to grab the unidentified man who was resisting him and he believed that he struck him twice with his baton in an attempt "*to affect the arrest*". Constable Donaldson explained that the man was trying to get away from him and there were members of the crowd who were pulling the man back while he was trying to hold on to him. He said he was going to place the man under arrest for assaulting a police officer. Constable Donaldson reported that he fell into the crowd and then decided "*it's not worth it*" and released his hold on the man. He advised that while he was in the crowd he was "*worried*" that they were going to take him away. However, a "*couple*" of officers assisted him and helped him back to the police line.

## Investigative Report

Constable Donaldson said he observed that a Toronto Police officer with the Long Range Acoustic Device (LRAD) come out and make an announcement. He advised that he could not remember exactly what was announced, but he said the crowd was ordered to leave and disperse the area. He said the crowd was advised that it was a Breach of the Peace and an Unlawful Assembly.

Constable Donaldson advised that they were told to remove their gas masks and were directed by an unidentified staff sergeant that they were going to be an arrest team for the PSU. He explained that they were to stand behind the PSU lines and receive custody of people who were arrested by PSU. He said that they would also run out past the PSU lines and *"attempt to extract and arrest a member of the hostile crowd"*. He reported that he was partnered with Constable Adams.

Constable Donaldson described an arrest of a combative male who was not the Complainant and they turned him over to a court officer. He said that this was the only person that they turned directly over to the court officers. He advised after this particular arrest a plain clothes officer would take custody of an arrested person from them and then take the person over to the court officers. He then outlined other arrests that he and Constable Adams made. Constable Donaldson outlined that he observed another arrest team attempting to arrest a man who was on the ground. He said that while they were attempting to arrest the man a member of the crowd kicked one of the officers in the back. He stated that members of the crowd were assaulting the officer while the officers were trying to extract the man. He advised that he and Constable Adams ran out to assist the officers.

Constable Donaldson said he and Constable Adams followed the PSU north through Queen's Park. He advised that they went to an area west of the main doors of the legislative building on the south side. He stated at this time they were designated by a PSU sergeant to arrest a male with a yellow Bristol board (the Complainant). He said they knew that they were arresting everyone for Breach of the Peace and Unlawful Assembly. He advised that he did not observe the Complainant prior to the time that he was pointed out to be arrested.

## Investigative Report

Constable Donaldson explained that when they went out in an attempt to arrest the Complainant, he had his face shield on and was yelling at the Complainant who was running away to *"Stop! Stop! You're under arrest"*. He stated that other officers took the Complainant to the ground and attempted to arrest him. He said he didn't believe he was actually involved in the *"actual takedown"*, but could not be 100% sure.

Constable Donaldson advised that once the Complainant was on the ground he was *"kicking and flailing his legs kind of"* and as a result he grabbed onto the Complainant's legs to secure them. He explained that it appeared to him that the Complainant was going to kick and flail and he wanted to make sure that he didn't hit anyone. He said he pulled the Complainant's legs out to lay him flat on the ground in order to enable a safe and effective arrest. He reported that he was still with Constable Adams, but he didn't know where he was.

Constable Donaldson described the Complainant as being uncooperative. He advised that his *"job"* was to place the handcuffs on the Complainant. He stated that this was previously arranged between him and Constable Adams. He said he was on the Complainant's left side and the Complainant had his left arm tucked under him, which concerned him. He explained that all the way through police training they are told that if you cannot *"see the hands there's a problem, cause what's in the hands is going to kill you"*.

Constable Donaldson said he yelled at the Complainant *"Give me you hand! Give me your hand!"* and advised that other officers were yelling at him too. He advised that the Complainant did not say anything in response, but he was not complying. He described the Complainant's behaviour as being *"active resistance"*. Constable Donaldson stated that he delivered *"two to three distractionary strikes"* to the Complainant's lower left side in order to get the Complainant's hand. In Constable Donaldson's section 11 interview he described the strikes as *"closed fist strikes"*.

## Investigative Report

Constable Donaldson advised that eventually they were able to place the Complainant under arrest and he was able to place the flex cuffs on him. He reported that he and another unknown officer walked the Complainant over to two plain clothes officers and the Complainant was still not cooperating. He explained that he saw in the video that investigators had shown him previously that the Complainant was pulling away from them.

Constable Donaldson was asked if he saw any other officer strike the Complainant and he replied that he couldn't remember. He explained that his concern at the time was with the Complainant's hands and his *"eyes were on the hands"*. Constable Donaldson was asked if he observed Constable Andalib-Goortani strike the Complainant at any time with his baton and he replied *"I didn't even know he was there"*. He said that he could not recall if he observed any injuries to the Complainant. He advised that the Complainant did not complain of being injured when he walked him back to the plain clothes officers. Constable Donaldson said the Complainant was turned over to two unknown plainclothes officers.

Constable Donaldson advised that he could not say how many officers were involved in the Complainant's arrest, but said there were more than two.

Constable Donaldson said that he spent seven months as a soldier in Afghanistan before he became a police officer and he had never seen anything like what occurred at Queen's Park. He said it was *"chaotic, out of control; the crowd was not listening to what we were saying, it was unruly"*.

### **Respondent Officer #5 Constable Daniel Lowe #90251 – Toronto Police Service**

Constable Lowe advised that he has been a police officer with the Toronto Police Service for three and half years and prior to becoming a police officer he had been court officer for two years. He said he is currently assigned to 54 Division; the Divisional Traffic Unit.

## Investigative Report

Constable Lowe stated that for the G20 Summit he was assigned to a foot patrol team that was comprised of six constables and one sergeant who was the team leader. He reported that the members of his team were Constable Fardell, Constable Babin, Constable McDonald, Constable Penwell, Constable Kim and Sergeant McDonald.

Constable Lowe said that he was provided training at the Toronto Police College which consisted of "a lot" of use of force training and "*specialized training in regards to donning and doffing the gas mask*". He advised that there was classroom training as well relating to the characteristics of large crowds, unlawful protests, riots and things of that nature.

Constable Lowe outlined that some of the tactics they were warned about, either in their training or conversations with other officers, that people attending the G20 Summit could use were as follows:

- ◆ Throwing bottles containing urine and/or excrement or acid at the police.
- ◆ Throwing bottles containing chemicals that would cause them to explode on impact.
- ◆ Throwing objects such as rocks, bricks and vice grips at the police.
- ◆ Throwing paint grenades at the police for the purpose of covering the shields on the police riot helmets.
- ◆ Placing fish hooks or razor blades in their clothing so the police would get a handful of fish hooks or razor blades when they were grabbed by the police.

Constable Lowe reported that his shift on June 26, 2010 was from 3:00 pm to 3:00 am and he was wearing his police issued uniform with a long sleeved uniformed shirt and the standard use of force options. In addition, he said that he had a gas mask and a riot helmet. He advised that he did not use the police hat that is used in the normal course of his duties and that he was issued a baseball cap that had "*Police*" written on it.

## Investigative Report

Constable Lowe stated that they commenced their shifts at the Hyatt Hotel and they had briefings at the beginning of each day as to what to expect or who was going where. He said on June 26<sup>th</sup> they received information that there was to be a large protest at Queen's Park. He advised that on this particular day his team went everywhere on foot.

Constable Lowe outlined that they had received information that some of the protesters were throwing objects at the Public Order Unit officers that were already at Queen's Park. He said his team was detailed to attend Queen's Park where they formed up with *"maybe a hundred or more officers"* at the northwest side, close to the museum. He advise that they proceeded south towards College St. and then turned north in behind the Public Order Unit officers who were in a line across Queen's Park.

Constable Lowe reported that his team was standing behind the Public Order Unit officers watching the crowd because they were throwing *"objects"* in their direction. He reported that there were bottles thrown at the police with what appeared to be water contained in them and that a pair of vice grips flew over his head. He said the Long Range Acoustic Device (LRAD) was used to advise the crowd that the protest was *"deemed to be unlawful"* and that anyone not leaving would be *"arrestable"* for Obstruct Police. He advised that he believed it was an inspector who made the announcement. He stated that at that point the Public Order Unit began moving north towards the front lawn area of Queen's Park in an attempt to get the crowds off the streets into the park. He said while they were doing this, *"objects"* continued to be thrown at them.

Constable Lowe said that there were members of the *"Black Bloc anarchist team"* in the crowd and he observed them wearing *"black gear"* with goggles, gas masks and headbands. He said that once the protest was *"deemed unlawful"* some people left, but some people stayed and *"started throwing more objects"* towards the police. He explained that people refused to leave the area, sitting down in a cross legged position, which was in his *"perception"* resistance to what they were being asked to do.

## Investigative Report

Constable Lowe said that Staff Sergeant Narine informed them that it was an unlawful crowd and to start forming arrest teams. He stated that they formed into six person arrest teams and began moving north into Queen's Park. He said they moved north with the Public Order Unit towards the legislative building and anyone who was not leaving was arrested for Obstruct Police. He stated that the arrested people were *"handed off to a hand off team"*.

Constable Lowe advised that the entire front lawn of Queen's Park was full of people and he estimated that there was close to a thousand or more people in the crowd. He guessed that there were approximately one hundred to two hundred police officers present.

Constable Lowe outlined that they were heading north on the grassy area of Queen's Park towards the legislative building, east of the front doors. He said that they *"basically stayed behind the Public Order Unit lines"* and arrested anyone who hadn't left the area. He advised that as they approached the building itself they turned west and went across the front of the building. He reported that the crowd was being moved *"sort of to the west of the building"* so they could continue to proceed north as Queen's Park splits in two directions. He outlined that the Mounted Unit began to come across the driveway of Queen's Park and he and the officers he was with moved closer to the building to get off the driveway.

Constable Lowe said as they were moving off of the driveway the Complainant was observed in the area and he was not leaving. Constable Lowe explained that he observed that the Complainant was stationary and was writing on a yellow piece of *"cardboard or Bristol board"*. He again said that the crowd had been *"ordered to leave the area, ordered to disperse"* and had been cautioned that they would be arrested for Obstruct Police. He advised that the Complainant *"was disobeying a lawful order"*. In addition, he advised that as the Public Order Unit was moving they were constantly saying *"Move"* and the Complainant was not moving; he was stationary and writing on a sign.



## Investigative Report

Constable Lowe advised that the Public Order lines opened and his arrest team came through the lines to arrest the Complainant. He explained that he told the Complainant he was going to be placed under arrest at which point the Complainant ran. Constable Lowe reported that he chased the Complainant and *"caught up to him on a grassy area"*, which was between the portable washrooms and a garden area.

Constable Lowe stated that to the best of his recollection it was a group decision to go through the line to arrest the Complainant, but could not *"say one hundred percent"*. He said he did not believe that they were directed by a supervisor to arrest the Complainant and could not remember if it was someone from the Public Order Unit.

Constable Lowe advised that the complainant was running away from him and that he approached the Complainant from the right. He said as he got closer to the Complainant, the Complainant *"turned and raised his hand up"*, which he perceived to be *"an assaultive gesture"*. Constable Lowe explained that *"he had no idea what was in his hands"* and *"what he had on his person"*.

Constable Lowe reported that he *"grabbed"* the Complainant around *"his upper waist, maybe the chest area with both hands"* and they both fell to the ground. He said he landed on his right shoulder and at that point the momentum flipped him on his back with the Complainant landing on top of him. Constable Lowe stated that the Complainant's back was on his chest and his back was on the grass. Constable Lowe described that there was complete darkness for what *"seemed like two to three seconds"*, but in all likelihood he felt it was probably *"only split seconds"*. Constable Lowe explained that he did not lose consciousness; the darkness was because his vision was obscured as the Complainant was on top of him.

Constable Lowe advised that he was concerned that the Complainant was on top of him with the Complainant's back on his chest. He explained that the Complainant was of large stature and Constable Lowe stated that he had to use both of his hands *"to get out from underneath him"*. He stated that he pushed up on the Complainant and squeezed himself out. Constable Lowe stated it was at this point that he *"feared"* for his safety as all his *"use of force options"*

## Investigative Report

*were exposed*". He explained that his gun was located on his right side and he was concerned that his *"firearm was exposed to a person who it realistically shouldn't be exposed to"* and there was *"nothing stopping him from reaching down and grabbing it"*. Constable Lowe did not believe that the Complainant tried to get at his use of force options, but qualified this by saying he didn't know where the Complainant's hands were because the Complainant's back was on top of him.

Constable Lowe said that after he was able to pull his head out from underneath the Complainant the remaining officers from his arrest team came to his assistance and *"attempted to affect"* the Complainant's arrest. He advised that he didn't know the names of the officers who were in his arrest team except for Constable Fardell. He said when the other officers were coming to his assistance he had got out from underneath the Complainant and was in the process of restraining the Complainant. Constable Lowe advised that to his recollection he was looking for a spot to assist. Constable Lowe advised that once the Complainant was restrained he was stood up and taken to a *"hand off team"*. He could not recall who took the Complainant to the hand off team and said it could have been him, but he was not *"one hundred percent sure"*. Constable Lowe advised that the Complainant did have a backpack with him, but did not know what happened to it. Constable Lowe estimated that the Complainant was arrested at approximately 7:50 – 8:00 pm, but could not give a definite time.

Constable Lowe said he did not *"use any use of force options"* on the Complainant other than when he tackled him. He stated that he did not punch or use any strikes to get the Complainant down to the ground or to remove himself from underneath the Complainant. He advised that he did not observe any of the other officers strike the Complainant or use any use of force options on him.

Constable Lowe advised that other than telling the Complainant that he was under arrest and *to "stop running"* there wasn't any other dialogue between him and the Complainant at this time. He explained the situation was *"dynamic"* and *"it happened so fast"* that there was not any opportunity for conversation.

## **Investigative Report**

Constable Lowe advised that he chipped his bottom tooth from the impact of hitting the ground, but other than that he was not injured. He stated that he did not observe any injuries to the Complainant. He said to his knowledge no one else was injured.

Constable Lowe was shown some photographs and videos at the start of the interview. He was shown these photographs and one video again later in the interview. In some of the photographs he identified who he thought was him. In addition, in some of the photographs he identified that one of the officer's features were similar to Constable Fardell's.

### **Respondent Officer #6 – Constable Oliver Simpson #9878 – Toronto Police Service**

Constable Simpson advised that he has been a Constable with the Toronto Police Service since 2007 and he is currently assigned to the 31 Division, Primary Response Unit. He said for the G20 Summit he was assigned to Mobile Team 5 and their supervisor was Sergeant Hughes. He outlined that the other team members were Constable Neale, Constable Andalib-Goortani, Constable Adams, Constable Donaldson and Constable Phillips.

Constable Simpson said prior to June 26, 2010 his team was assigned to the downtown core and each day they had various assignments. He explained that most of their assignments were to search areas such as parks for hidden weapons that could be used in the protests. He advised that his team used two minivans as transportation. Constable Simpson stated that he was pulled from his team for *"a couple of days"* to guide the RCMP and Peel Regional Police Service members. He reported that he was working in uniform for the G20 Summit and his team primarily worked day shift from 7:00 am to 7:00 pm.

Constable Simpson stated that he received training on how to use the helmet and gas mask prior to the G20 Summit.

Constable Simpson reported that his team was briefed at the start of each shift at the Hyatt Hotel, which is located on King St. in Toronto. He said they were informed of what occurred recently and what area they were going to focus on. He outlined that they were briefed on

## Investigative Report

"*weapons that were found in bushes*" and substances that were consistent with Molotov cocktails. He said that they were advised of areas where the "*Black Bloc*" may show up and areas that may be problematic within certain protest groups. Constable Simpson explained that he was told that the "*Black Bloc*" was a group that disrupts peaceful protests.

Constable Simpson stated on Saturday, June 26, 2010 at approximately 7:00 am he attended a briefing at the Hyatt Hotel. He said they were informed that they would be assisting with a protest parade. In addition, he said that his team was to look for hidden weapons in garbage cans, parks and shrubs, which might be used later in the day.

Constable Simpson outlined that his team attended "*a couple of parks within the downtown core*" on June 26<sup>th</sup> and went through the bushes and shrubs looking for hidden weapons. He said from there they drove around the city investigating different groups of people and then assisted with the parade. He advised that at 1:15 pm his team was at their traffic point at Spadina Ave. and College St. to assist with the parade.

Constable Simpson stated the parade started off relatively organized; however, approximately fifteen to twenty minutes after the parade started he heard over the police radio that people were changing into "*all black*" clothing and covering their faces. He advised that it progressively got worse and he heard via the police radio that police vehicles were being burned at different locations and officers were calling for assistance.

Constable Simpson said his team was dispatched to Queen's Park "*on a regroup of sorts*". He advised that when they arrived at Queen's Park the crowd was moving westbound on College St. towards Queens Park. He stated that his team assembled south of Queen's Park at University Ave. and College St. and when he looked east he saw a large crowd of black with flags coming towards them. Constable Simpson said as the crowd got closer they were throwing stones and bottles filled with liquids at the police. He described the crowd as being very aggressive and very hostile.

## Investigative Report

Constable Simpson reported that a command decision was made to pull back and regroup. He advised that his team "*pulled back*" to Bloor St. where they were to meet other police resources. He said that some of the crowd followed them and once they regrouped they were told to push the crowd south. He reported that they put on their helmets and extended their batons and then they started to push the crowd south.

Constable Simpson said that they walked on the west side of Queen's Park and proceeded to the south end of Queen's Park where there was a Public Safety Unit (PSU) along with other uniformed members from various police services. He advised that they swung towards the east and held the line there until the PSU took the front of the line. Constable Simpson reported that his team was then "*pulled back*" in a line behind the PSU officers. He said that they were then designated as "*Extraction Teams*".

Constable Simpson said that the PSU started to push the crowd north in Queen's Park and designated people that they wanted "*extracted out of the group*". He said a number of people were pointed out and taken out of the crowd. He said they would be taken back and handed off to a "*HOT team*" or a "*hand over team*", which were police officers in plain clothes. He advised that they were told that the reason for removing people from the crowd and arresting them was "*Unlawful Assembly*".

Constable Simpson advised that he made approximately four or five arrests and he would tell the people he arrested that they were under arrest for Unlawful Assembly. He said the arrest team normally consisted of four officers. However, the arrest teams became larger because in one incident a team went out and the PSU was not close enough to keep the crowd away from the arrest team. He advised that one of the officers who was part of the arrest team would give their badge number to the HOT team or handoff team when the arrested person was handed over to them.

## Investigative Report

Constable Simpson stated that everyone he apprehended was taken to the ground as no one wanted to come back willingly. He said they were *"resisting, fighting, keeping their hands under their body."* He advised that he recalled using *"distractionary strikes"* with his hand in order to have the people release their hands.

Constable Simpson said he heard numerous announcements telling the crowd that it was an *"unlawful assembly, please leave the area"*. He further advised that he heard the Long Range Acoustic Device (LRAD) and police officers on other loud speakers making announcements telling the crowd to leave the area and that it was an unlawful assembly.

Constable Simpson advised that the interview with the investigators was his third interview relating to the Complainant and he learned based on the photographs he has seen that the Complainant was one of the persons he had interactions with.

Constable Simpson advised that the Complainant was pointed out as a person to be extracted and he said his team went out and *"got him to the ground"*. Constable Simpson explained that the Complainant was some distance away from the Extraction Team and when he was pointed out by the PSU he took flight and they went after him. He reported that the Complainant *"resisted"* and did not want to give up his hands and this concerned him as he did not know *"what he had on him"*. Constable Simpson stated *"so it was a series of distractionary strikes, to get his hands"*.

Constable Simpson said that he *"can't quite recall what I did with him, as opposed to someone else"*. He explained that he had a number of extractions within a short period of time and *"just based on the video and so on that I've seen, all I've done is go around and this is just speaking in my extractions, right, this person's not giving their hands, it's within their torso area, they're just distractionary strikes, kneeling or closed fist hitting"*. He advised that he meant knee strikes and stated *"it would be to the torso area to get the hands out"*.

## Investigative Report

Constable Simpson advised that he would give the person he is delivering distractionary strikes to commands to give their hands up and explained that there would be no reason to give a person distractionary strikes without letting them know what you wanted them to do. He agreed that he would either strike the person with his fist or knee in the upper torso. He was asked if he hit the Complainant in the head and he replied that *"at no time do I recall hitting anybody in the head"*.

Constable Simpson advised that he did not recall what the Complainant was doing with his head and his feet and said that all his focus was to get the person into custody and to get their hands.

Constable Simpson said he did not observe any injuries to the Complainant. He advised that they were issued *"plastic zip ties"* for handcuffing and the person arrested would always be zipped tied behind their back.

Constable Simpson said based on the serious of photographs that he had seen he could identify Constable Andalib-Goortani, Constable Adams and himself as being present during the Complainant's arrest and part of the Extraction Team who arrested him.

Constable Simpson was shown a series of photographs in the latter portion of his interview. In the first photograph he was shown, his attention was drawn to one officer and he was asked if it looked like him. He replied, *"Well I'm the only darked skinned officer within that area, so I would say that's me"*. He recognized Constable Andalib-Goortani in some of the photographs. In addition, he identified himself in some of the other photographs. He further identified Constable Adams in one of the photographs and his silhouette in another photograph.

## Investigative Report

### **Respondent Officer #7 – Constable Geoffrey Fardell #9652 – Toronto Police Service**

Constable Fardell advised that he has been with the Toronto Police Service since December 2006 and he is currently assigned to the 54 Division, Primary Response Unit. He said for the G20 Summit he was assigned to Foot Patrol Team 38 and their patrol zone was Queen's Park and the surrounding area.

Constable Fardell stated that the supervisor of his Foot Patrol Team was Sergeant Royce MacDonald and the other members of his team were Constable Lowe, Constable Pinwell, Constable Kim and Constable McDonald. He advised that he was working in uniform with a long sleeved shirt, a "*riot helmet*" and his gas mask that was in a bag attached to his right leg.

Constable Fardell said that he did a one or two training session at the Toronto Police College for the G20 where they learned about crowd control and the gas masks. He said they were told there was a possibility that there would be organizations such as anarchists in the crowd and advised about things they should look for.

Constable Fardell reported that on June 26, 2010 he worked from 3:00 pm to 3:00 am and that his team had their usual briefing at the commencement of their shift at the Hyatt Hotel. He said they were given information that there was an active protest going on and what was currently occurring at Queen's Park. He advised that his team was detailed to go directly to Queen's Park and he believed they arrived at approximately 3:30 pm, but could not give an exact time.

Constable Fardell explained that his team walked to Queen's Park and they were near the front doors by the gate that was blocking off the main entrance to Queen's Park. He said while they were standing there more protesters and police started coming to Queen's Park. He advised that they were instructed to walk up University Ave. where there was a large meeting of police officers. After the meeting they marched down towards Queen's Park to the area of University Ave. and College St. where the Public Safety Unit (PSU) was already set up. He said his team fell in behind the PSU. He advised that they were instructed to wear their gas masks when they



## Investigative Report

marched down to Queen's Park and they were told to remove them when they arrived at College St.

Constable Fardell outlined that the PSU was just north of College St. where University Ave. *"splits kind of like a Y"*. He said there were thousands of police officers present and there were thousands of protesters on the front lawn and road in front of Queen's Park. He advised that he stood at this location for *"probably over an hour"* while a protest was going on.

Constable Fardell said the majority of the crowd was peaceful and they would come and go peacefully. He advised that a group came marching up University Ave. that seemed to be more of an unruly group. He stated that when they were standing there holding the ground, Gatorade bottles, rocks and *"all that kind of stuff"* was being thrown at the police. He explained that not everyone was being unruly but there were several people with their faces covered throwing items and some people who had the *"Black Bloc"* look.

Constable Fardell advised that at some point the protest was deemed unlawful. He explained there was a mass message to everyone on scene via a *"loud speaker"* cautioning people for Obstruct Police and instructing the crowd to clear the area. He said the crowd was pushed back by the PSU and the Mounted Unit while his team held their ground.

Constable Fardell said that he was pulled from his team by an unidentified sergeant and designated to be part of an arrest team. He advised that this occurred approximately one to two hours prior to his dealings with the Complainant. He explained that he was selected to be part of an arrest team consisting of six officers and they were instructed to arrest *"certain people"*. The only officer he knew that was part of his arrest team was Constable Lowe. He outlined that his arrest team would go through the PSU line and they were instructed to arrest people in the crowd who were identified as being unruly and were throwing items at the police. He said they would then bring the arrested person back behind the PSU line and hand them off to another officer who was usually a plain clothes officer. He estimated that he was involved in between five and twenty arrests.

## Investigative Report

Constable Fardell advised that after a few hours they ended up on the front west quadrant of Queen's Park by the legislative building and an unknown officer identified the Complainant for arrest. He said that officers ran in after the Complainant and an officer tackled the Complainant, which resulted in the Complainant being up on top of the officer. He stated that is when he stepped in with approximately six other officers while PSU held the area. Constable Fardell advised that the Complainant was placed under arrest and two unidentified officers took him behind the PSU line. He advised that he found out later that Constable Lowe was the officer who tackled the Complainant.

Constable Fardell advised that the Complainant was tackled because he was *"trying to get away"* and when the Complainant ended up on top of Constable Lowe that is when he got involved. He described the Complainant as being *"on all fours"* on top of the Constable Lowe and it looked to him like the Complainant was trying to get up. Constable Fardell advised that Constable Lowe was on his back and *"all of his use of force options were exposed."* He said at that point he was just trying to get the Complainant off of Constable Lowe. Constable Fardell stated later in his interview that by the time he arrived he thought Constable Lowe managed to roll out from underneath the Complainant. He advised that he then assisted in getting the Complainant under control as he was *"fighting violently."*

Constable Fardell said the Complainant was *"told several times to stop resisting"* and to give them his hands, which he didn't. Constable Fardell explained that the Complainant wasn't giving his arm, he was just thrashing around and then he went down to the ground. He said that the Complainant had *"his arm tucked in"* and *"he was told to stop resisting"*; however the Complainant continued to thrash around. He advised that they were trying to hold the Complainant down and he thought there were maybe four officers on top of him at that point as he believed that there some officers on the Complainant's legs. Constable Fardell said he did not know if the Complainant was trying to get away or if he was trying to attack Constable Lowe or if he was trying to get another officer's use of force equipment. However, he did not see the Complainant go after Constable Lowe's use of force options.

## Investigative Report

Constable Fardell advised that he "*basically*" secured the Complainant's shoulder area and had his knee on top of him and then he tried to help get the Complainant's arms out from underneath him. He said that the other officers were able to get his arms out and place the zip ties on him. Constable Fardell explained that there were officers on top of the Complainant and from what he remembered he was near the Complainant's top shoulder area. He said "*I was near his top shoulder area and basically I just pinned him down and kneeled on him because he was still thrashing around*". He said once the other officers started getting his hands out and got him zip tied he decided to get up and stood by until he was removed from the area. Two officers removed him and took him back behind the PSU line.

Constable Fardell described the Complainant's behaviour when he was on the ground as being "*resistive*" and explained the Complainant was thrashing around; he was trying to get away and was actively resisting. He said multiple officers told the Complainant he was under arrest and he was told several times to stop resisting and to give up his hands. He advised that the Complainant was told he was under arrest for Obstruct (Police).

Constable Fardell advised that he held the Complainant down and kneeled on top of him, but he never struck him. He said he was kneeling on the Complainant and the other officers got his arms. He said he was kneeling on his shoulder area, "*kind of*" holding the back of his shirt and was looking to the west at the crowd to make sure no one interfered with the arrest. He advised that he did not observe anyone "*punch*" the Complainant but he saw officers fighting with his arms. He did not see any officer use their baton when dealing with the Complainant.

Constable Fardell did not hear any inappropriate comments being made towards the Complainant. He explained that his whole interaction with the Complainant was about ten seconds and all he heard was the crowd screaming and every officer telling the Complainant to "*show me your hands, stop resisting*". Constable Fardell said he was not hurt or injured from his dealings with the Complainant. He said that he did not observe any injuries to the Complainant. Constable Fardell recalled that the Complainant had a backpack and that he was taken away with the backpack.

## **Investigative Report**

The investigators showed Constable Fardell a number of photographs he identified areas in some of the photographs where he may have been depicted. These particular photographs showed his back and he could not say definitively if it was him. He did positively identify himself in a photograph that depicted the circumstances where he previously described that he was turned watching the crowd. He explained that when this photograph was taken he was kneeling on the Complainant and guessed that the Complainant was underneath him. He said that he was protecting his *"side arm and watching the crowd"*.

Constable Fardell was asked if the Complainant was spitting or biting and he said that he had pinned him down for the purpose of not allowing the Complainant to spit at him or bite him. He explained that it was his experience when you get on top of someone the he cannot easily bite you.

### **Respondent Officer #8 – Constable Todd Storey #7457 – Toronto Police Service**

Constable Storey advised that he has been with the Toronto Police Service for fifteen years and was assigned to the 22 Division, Major Crime Unit. He said that during the G20 Summit he was working in plainclothes and he was assigned to a Rapid Response Team (RRT). He explained that their goal was basically to gather intelligence and if there were people that needed to be arrested during or prior to the event they would arrest them at a safe location.

Constable Storey said that leading up to the G20 Summit he had gas mask training at the Toronto Police College. In addition, he advised that they had some lectures on what their duties were as a Rapid Response Team.

Constable Storey advised that his RRT was comprised of a Detective and six constables. He said that Detective Dicosola was in charge of his team and Constable Watson, Constable Hamilton, Constable Rush, Constable Huber and Constable Zivcic were the other members of his team. He advised that he and Constable Watson were partners prior to the G20 and they tried to stay together during the G20, but he advised it depended on what was occurring as he could be partnered up with anyone from his team.

## Investigative Report

Constable Storey said on June 26, 2010 he started work at 7:00 am and believed he worked to 1:00 am on the morning of June 27<sup>th</sup>.

Constable Storey advised that they had briefings in the morning of every day they worked at the G20 Summit. He said they were briefed on what they would be doing and on what occurred during the previous night and about people who were "*arrestable*". He stated that no one knew what was going to happen on June 26<sup>th</sup> and their job was to extract anyone who was identified as a trouble maker or who had committed a criminal offence and take them to the Prisoner Processing Centre (PPC). He advised that they were directed to locations where they were needed.

Constable Storey advised that his team was deployed to Queen's Park at approximately 5:00 pm on June 26<sup>th</sup> as that was where the majority of demonstrations were occurring. He explained that it was decided that it was too dangerous for his team to do extractions due to the number of people present and because they were in plain clothes. As a result it was decided that his team would assist with extractions by being behind the Public Safety Unit (PSU) lines and if someone was extracted from the crowd by uniformed officers or PSU officers they would be the "*middlemen*". He explained that the arresting officer(s) would hand the arrested person off to them and they would bring them back to the court vehicles and do the paperwork. This allowed the arrest team to go back to the lines to do more extractions.

Constable Storey said that he was not always partnered with the same plain clothes officer and explained there were quite a few plainclothes teams and people were "*getting arrested all over the place*". He advised that it depended on the situation and he outlined that two to four plain clothes officers would go to the police line and take control of the arrested person from uniformed officers and bring them back to the court transport vehicles. Then one or two plain clothes officers would stay with the arrested person and the other plain clothes officers would head back to the PSU line to assist with other arrests. Constable Storey outlined that with the majority of the arrested people he dealt with, the arresting officer would tell him what the person was under arrest for when they handed the person over to him.

## Investigative Report

Constable Storey estimated that there were approximately three thousand to five thousand people present, but he couldn't be certain. He explained that there were people *"pretty much"* covering the whole of Queen's Park north of College St. He estimated that there may have been a thousand police officers present, but he wasn't certain.

Constable Storey did not hear any announcements to the crowd to disperse or cautioning them they may be arrested, but said that he knew that an announcement had been made. He thought a Superintendent made the demands for everyone to disperse, but he did not know when the announcement was made.

Constable Storey described the events at Queen's Park as *"mayhem"* and explained that people were being *"aggressive and belligerent."* He explained that it was very noisy with people chanting and screaming and people were throwing items at the police line. He said that *"it was a very dynamic situation"*, which was always changing.

Constable Storey outlined an scenario where four or five officers *"basically with their backs to the crowd"* would be arresting a person and their concentration would be on the person they were arresting, not the crowd. He said people would be throwing items that would hit the arresting officers and the person that was being arrested.

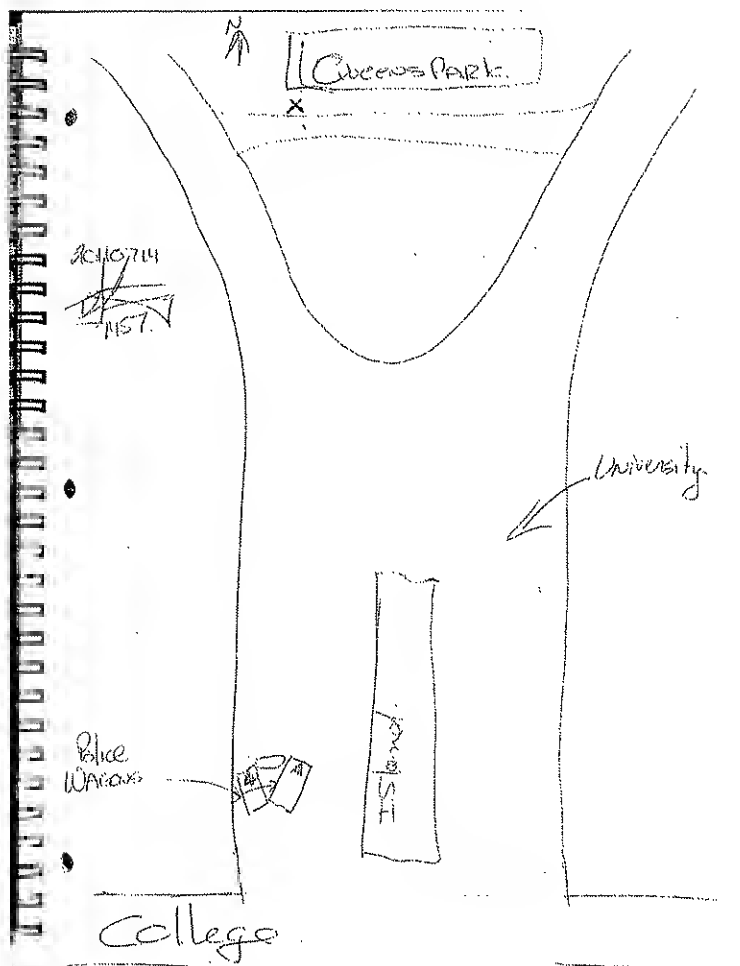
Constable Storey said that the first time he saw the Complainant was at approximately 8:00 pm. He advised that by the time he received the Complainant the police line had moved past the front doors of Queen's Park and was going towards the west side of the building. He said he had met with Constable Watson and they were *"far behind"* the line waiting for the next extraction. He reported that he saw two Toronto Police Service uniformed officers with the Complainant coming from the west side of Queen's Park over a grassy area. He said there was an officer on either side of the Complainant and he and Constable Watson ran up to the uniformed officers and took custody of the him. Constable Storey described the Complainant as being *"relatively cooperative"* but *"mouthy"*. He advised that they walked him to where the prisoner transport wagons were located.

## Investigative Report

Constable Storey explained that it was a quick transition as they wanted to get the Complainant and themselves to a safe area. He said the officers yelled over their badge numbers and advised the Complainant was arrested for Breach of the Peace. He advised that he heard one of the uniformed officers give the badge number 10924. He outlined that it was loud and there was "*a little distance*" between him and the officer when he yelled out his badge number. He also explained that the officers had their helmets with their shields down over their faces. He advised that the Complainant was flex cuffed to the rear when he and Constable Watson received him from the uniformed officers. He also said that the Complainant was wearing a backpack on his back when they received him.

Constable Storey said that they told the Complainant he was under arrest for Breach of the Peace and he believed that Constable Watson read him his rights to counsel. The Complainant walked to the prisoner transport vehicles that were located at the "*bottom*" of Queen's Park. He advised they walked over to the southbound lanes of Queen's Park Circle on the west side of University Ave. He drew a map of the location where they took custody of the Complainant and the location of the prisoner transport vehicles where the Complainant was taken. Constable Storey explained that the prisoner transport wagons were closer to College St. (Please see diagram depicted below.)

## Investigative Report



Constable Storey advised that when they were walking the Complainant to the prisoner transport vehicles he was "swearing" at them and was being "a bit ignorant". Constable Storey told the Complainant something to similar to *"just be quiet, I'm tired; I don't need to hear people yelling and screaming and swearing at me"*. He quoted the Complainant as saying *"You have nothing. You're pigs, Fuck off. Why do you have me here? You have no reason to arrest me"*.



## Investigative Report

Constable Storey said that he was on the left side of the Complainant when he was walking him to the prisoner escort vehicles and Constable Watson was on his right. He advised that the Complainant's hands were behind his back and underneath his backpack. He had one arm and Constable Watson had the other arm. He stated that the Complainant was walking a bit faster than they wanted to walk and they held on to him and told him he did not need to rush.

Constable Storey was asked if he said anything to effect *"Yeah do you know when we get over there we're going to beat the fuck out of you, right"*. He replied that he never made that comment. He was asked if the Complainant asked them not to beat them and if he replied *"Oh now you're a nice guy, eh"*. He denied that the Complainant said he was not being a nice guy and was just asking you not to beat him and that he told the Complainant *"No fuck it we're going to beat fuck out of you"*.

Constable Storey advised that there were several different units and other officers processing people at the prisoner transport vehicles. He said that they walked the Complainant to the transport vehicles and they laid the Complainant down at the front of two prisoner transport vehicles to search him. He explained that they laid the Complainant down so he could not run away and it was easier to control to him. Constable Storey advised that the Complainant had his backpack on and if they had sat him down on his hands the flex cuffs could have cut off his circulation. Constable Storey advised that he cut the Complainant's backpack off of him once he was lying down.

Constable Storey said that when they were walking with the Complainant to the prisoner transport vehicles he observed that he had redness and maybe light bruising to his face. He advised that it appeared that the Complainant had something like blood or mud on his left cheek. Constable Storey reported that the Complainant said he lost his contact lens and he located the Complainant's contact lens on his cheek. He advised that he placed the contact lens on the Complainant's cell phone so it would not get lost and placed the cell phone back into his backpack.

## Investigative Report

Constable Storey advised that at no time did he remove the Complainant's zip ties between the prisoner transport vehicles. He said the procedure was for the court officers to take the zip ties off the arrested people, as they had a special pair of *"pliers"* that cut through the plastic. He said the court officers replaced the zip ties with the regular handcuffs when the Complainant was turned over to them.

Constable Storey said that Constable Watson was looking after the Complainant's property and he walked the Complainant *"around to the side"* to get the Complainant's photograph taken with him. He reported that while he was standing with the Complainant there was a group of PSU officers who were resting in the area. He reported that the Complainant *"got a bit vocal"* and *"a bit ignorant"* with the PSU officers and there was *"banter"* going back and forth. Constable Storey said he did not remember exactly but thought some of the banter was that the PSU officers had been looking at him for the last two hours and it was great to see him arrested because he was one of the main instigators. He advised that this was the only conversation that took place and it occurred when they were at the side of the prisoner transport wagon where the arrest photographs were taken. He reported that the banter was only with the PSU officers as the other officers were processing people and concentrating on the individuals they were dealing with.

Constable Storey stated that when the banter was taking place he held on to the Complainant tighter and told him *"You're arrested, it's over. It's done, just be quiet"* and that he did not *"need to be causing trouble at this point in the game"*. He advised that this was when Sergeant Alderdice approached him and handed him a small water bottle. He said he could see that there was a clear fluid inside. Constable Storey said that Sergeant Alderdice told him that there was an alcohol based liquid inside and that the Complainant had dropped the water bottle. The water bottle was turned over to Detective Dicosola and then eventually turned over to a person from the Property Unit whose badge number was 87660.

## Investigative Report

Constable Storey related that Sergeant Alderdice told him that the Complainant *"was basically taunting his line"*; that he was *"spitting and kicking out at them when they moved forward"*. Sergeant Alderdice said that the Complainant was *"one of the main instigators to get people going"* and he was directly in front of their lines pushing their shields.

Constable Storey said he took the Complainant over for his photograph by himself, and Constable Watson did not attend with him, as he was looking after the Complainant's property bag. He said he never heard Constable Watson say to the Complainant *"fucking hit me man, fucking hit me, I want you to fucking hit me"*.

Constable Storey said he had his photograph taken with the Complainant and he did not know of any other photographs taken of the Complainant. Constable Storey advised that Detective Dicosola assisted him and Constable Watson with the pat down search, dealing with the Complainant's property and filling out the *"HOT Sheets."*

Constable Storey outlined that when they asked the Complainant his name and the Complainant replied Adam Nobody, Constable Storey said *"Come on, what's your name?"* He said when the Complainant repeated his name again he stated *"No, what's your real name?"* Constable Storey advised that he probably told the Complainant something like *"Stop jerking us around. Stop being a goof. What is your name?"* He reported finding the Complainant's identification that confirmed that he was giving his proper name. Constable Storey denied using any profanity when he was questioning the Complainant about his name. Constable Storey was asked if he said *"Stop being a smart ass. Stop being a smart ass. Shit this guy is really Nobody"* and Constable Storey advised that he could probably see himself saying *"smartass"*.

Constable Storey advised that Detective Dicosola was present for most of the time that they had the Complainant between the court vans. He explained that Detective Dicosola was filling out the paperwork at the front corner of a prisoner transport vehicle. He believed that Detective Dicosola was using the hood of the prisoner transport vehicle to write.

## Investigative Report

Constable Storey outlined that the Complainant's backpack contained clothes and some beer cans that were leaking. He said the backpack was a "*bit wet*" and he handed the leaking beer cans to Constable Watson. He advised that there was also a cell phone and his identification in the backpack.

Constable Storey said they did not kick the Complainant when they took him between the prisoner transport vehicles. He stated that they laid him down to search him. He said, if anything, when they put him down on the ground they told him what they were doing and had a hold of him when he went down to the ground. He said that the Complainant might have fallen maybe an inch, but at no time did he kick the Complainant as he was on his knees beside him when he was searching him. He said the Complainant was mostly on his side when he searched him. Constable Storey advised that neither he nor Constable Watson called the Complainant "*a pussy*" and "*a piece of shit*" and told him that "*he stinks*".

Investigators told Constable Storey that the Complainant reported that while his backpack was being searched that either he or Constable Watson had their foot on the Complainant's face and was grinding the Complainant's face into the ground. Constable Storey said this did not happen and explained that he was in close proximity to the Complainant; he was right beside him. He said that when the Complainant was talking he was "*spitting a bit*". He advised that he did not know if the Complainant was spitting deliberately or from the incident that occurred. Constable Storey stated that he told the Complainant "*Keep your face down. I don't need to be spit on. I've already been spit on today. I don't need it again*". He said that he never put his hands on the Complainant's face or his foot on the Complainant's face to push him down or anything like that.

Constable Storey was told that the Complainant said Constable Watson stood on his face and challenged him to a fight and insulted him. He was asked if he recalled the incident and Constable Storey replied "*No. That was never said*". Constable Storey said he did not puncture the Complainant's beer cans with a knife and dump them out. He advised that there were two to three beer cans that were leaking and did not believe there was any more. Constable Storey

## Investigative Report

denied cutting the Complainant's belt off with a knife, but said he did cut the straps to the Complainant's backpack to remove it from him.

Constable Storey confirmed that the Complainant had a security licence in his wallet. He described it as a card that had his photograph and personal identifiers on it. He said he believed the security licence also indicated the company that the individual works for. Constable Storey denied threatening that he would report the Complainant's arrest and cause him to lose his job. He explained that the Complainant said he was not doing security any longer and commented that he found it "*kind of funny*" that he was a security guard who had certain obligations and he was at the "*G20 causing crap*".

Constable Storey advised that he was with the Complainant for approximately fifteen to twenty minutes, maybe a little longer. He said that while the Complainant was with him he did not complain about being injured or that he needed medical attention. He explained that the only thing the Complainant was really concerned about was losing his contact lens.

Constable Storey said that he found out "*much later*" that the detective who did the paperwork for the Complainant named him as a victim of an assault committed by the Complainant. He advised that he did not know how it came to be that the Complainant assaulted him. He thought the detective doing the paperwork saw his badge number and assumed the Complainant had assaulted him. Constable Storey advised that it was an error listing him as the victim of an assault by the Complainant.

Constable Storey explained that there are two or three copies of the "*HOT Sheets*" and the officer usually kept a copy, a copy goes with the prisoner transport wagon and a copy goes to the Investigations Section back at the PPC. He advised that there is a page on the HOT Sheet that contains the Complainant's tombstone information and there is another page that has a synopsis of what occurred, including the reason for arrest. He outlined that the paper work went to the PPC where the Complainant was "*booked*" into the facility and then the detectives obtain the paper work and do their investigation. Constable Storey said the detective would base the charges on the information contained on the Hot Sheet.

## **Investigative Report**

Constable Storey said there was no dialogue between him and the detective at the PPC and he explained that there was no way for the detective to get a hold of them. He advised that they might have been at the PPC twice during June 26<sup>th</sup> and they did not go to the prisoner processing area at the site.

### **Respondent Officer #9 – Constable Luke Watson #8430 – Toronto Police Service**

Constable Watson advised that has been with the Toronto Police Service for approximately ten years. He said that during the G20 Summit he was assigned to a Rapid Response Team (RRT), in plain clothes. The team was comprised of six officers under the supervision of Detective Dicosola. He explained that his team was assigned to assist uniform officers with extracting arrested people and also extracting criminal elements from the crowds if it was safe to do so. On Saturday June 26, 2010 his shift commenced at 7:00 and ended at 1:00 am the next day, Sunday June 27, 2010.

Constable Watson advised that on June 26, 2010 his team was briefed by Detective Sergeant Belgrade at the beginning of their shift at the PPC. Information was provided as to the day's planned demonstration, what activity might occur, safety concerns and risks to the public and officers. He noted that examples of risk to police were identified as projectiles being thrown, unknown airborne or liquid substances and assaults committed against police.

Constable Watson outlined his activities prior to attending Queens Park that day. He said his team would go around to designated areas, at the MICC's direction, where rallies were being held to oversee the demonstrations. He said there were people who had been previously identified as being wanted for offences committed prior and his team would monitor and look for those wanted persons and execute arrest warrants if it was safe to do so.

Constable Watson reported that his team drove to Queen's Park as a unit, as the MICC directed them to assist frontline officers with extraction of people arrested. He said they arrived at Queen's Park at approximately 5:00 pm and he saw what he believed were thousands of people and several thousand officers there. He noted the scene was aggressive in nature and his team

## Investigative Report

waited in a safe area in among the crowd. He said it was loud and people were chanting and cheering, noting there were "*happy people*" and there were "*angry people*" who were swearing and being belligerent.

Constable Watson outlined that even though his team was comprised of six or seven officers, they generally worked in pairs. If someone was to be extracted or taken from a uniform officer, an officer would stay with the arrested person and the other officers from the Rapid Response Teams would go back near the frontlines and help with other extractions.

Constable Watson said if was safe to do so they would go out past the Public Order lines to apprehend people. As the day progressed and into evening it became more dangerous to go out into the crowd so his team took arrested persons from uniformed officers who brought them back to them in a safer place.

Constable Watson reported that he did not hear any announcements being made to the crowd directing people to disperse, but he was advised later that day that a warning or announcement had been made.

Constable Watson reported that the first time he interacted with the Complainant was when he saw two uniformed officers walking a male through Queen's Park towards the area where he was standing to receive arrested persons. This area was described as near the west side of the legislature building. Constable Watson and Constable Storey walked to the uniformed officers and the Complainant and they took custody of the Complainant. Constable Watson said he asked the officers what the Complainant was arrested for, and was told he was arrested for Breach of the Peace. He obtained a badge number from the arresting uniformed officer, which he later learned was invalid.

Constable Watson explained that taking the Complainant into custody from the uniformed officers was a very quick interaction. He said that by this point in the day the crowd had begun to throw things over the Public Order officers and into the groups of uniformed and plain clothes officers who had little protection from projectiles being thrown at them. In view of that,

## Investigative Report

they quickly took hold of the Complainant and did not spend much time with the arresting officers to get information.

Constable Watson explained that as he and Constable Storey walked the Complainant back to the safe area, with them each holding onto one of the Complainant's arms, the Complainant "*wasn't happy*" and was swearing and calling them names.

Constable Watson remembered that the Complainant had some "*slight swelling around his eyes*" and early signs of bruising, meaning it was light bruising at that time. He believed there was also a small scratch under his left cheek. He said he never heard the Complainant complain of being injured.

Constable Watson advised that he and Constable Storey took the Complainant over to the court vehicles to process the "*HOT Arrest Sheet*." The wagons were located in the southbound lanes of University Ave. (on the west side), north of College St, facing north. Arrests were being processed on the east side of one wagon and on the west side of another wagon. The wagons were parked at an angle, closer at the rear than at the front, in somewhat of a V-like shape. There was also a large Public Safety Unit vehicle on the grassy area to the west side.

Constable Watson explained that there were officers and people everywhere in this vicinity. There were Public Order officers standing and resting all around this area, and officers at the front hood of the court vehicles who were filling out arrest paperwork before people were placed in wagons. He said it was very loud, with yelling and banging going on. He advised that he and Constable Storey found a safe place to search the Complainant in a space that was between the two wagons. Their supervisor, Detective Dicosola was present and assisted them with the arrest paperwork. Constable Watson outlined how they sat the Complainant down between the front wheels of the two wagons. Constable Watson reported that the Complainant called them names and swore, but was otherwise compliant and there was no resistance. Constable Watson explained that the Complainant's backpack was tangled in the flex-cuffs so they laid the Complainant down on his right side. Constable Watson recalled that the Complainant indicated he had a contact lens that had fallen out and it was found hanging on his



## Investigative Report

left cheek. He said that they removed the lens from his cheek and placed in on his cell phone that had been removed from his backpack.

Constable Watson explained that Detective Dicosola asked the Complainant for his name, to which he replied "*Adam Nobody*" and that they did not believe the Complainant. He thought Constable Storey obtained the Complainant's identification from his backpack and informed Detective Dicosola that the Complainant's full name was Adam Nobody.

Constable Watson advised that when they took custody of the Complainant his hands were flex-tied behind his back and the backpack straps had been tied or tangled with the flex-cuffs. The backpack was removed, although Constable Watson could not recall how the backpack was removed.

Constables Watson said that he conducted a pat down search of the Complainant. Constable Watson reported that Detective Dicosola was at the front end of the court wagon positioned at the west side, where he was filling out the paperwork. He said that Constable Storey passed him a couple of beers that were leaking, which Constable Watson discarded near a grassy area. He noted that when he finished discarding the beer cans he headed back to where Constable Storey and the Complainant were waiting.

Constable Watson was unable to comment on how many beer cans were in the Complainant's backpack because he did not search the backpack. He was unable to address the allegation that Constable Storey punctured the beer cans with a knife because he was standing by Detective Dicosola and he didn't recall how many cans there were or what exactly happened with them. He commented that if the cans were punctured there would have been a lot of spilling but he recalled only some leaking beer and he didn't know how many cans there were. Constable Watson did not recall anything about a belt or if Constable Storey cut a belt with his knife.

Constable Watson advised that they picked the Complainant up and walked him around the front of the west wagon where Detective Dicosola was doing the paperwork. They made their

## Investigative Report

way to the west side of court wagon and Constable Storey stayed with the Complainant and Constable Watson put his backpack into a property bag. They walked the Complainant to the Court Officer and then Detective Dicosola had asked him to assist with other extractions.

Constable Watson estimated it was approximately 8:00 pm when they arrested the Complainant. Constable Watson reported that as he and Constable Storey were walking the Complainant back out of the line he advised the Complainant that he was arrested for Breach of the Peace. He remembered informing the Complainant of his right to a lawyer and cautioned him that anything he said could be used against him in court.

Constable Watson denied twisting the Complainant's arms when they took custody of him and walked him away. He stated that he went to the Complainant's right side and Constable Storey went to the left side of the Complainant. They held onto his arms while all three of them walked together.

Constable Watson reported that he made no threatening or aggressive comments towards the Complainant. He denied the allegation that he or Constable Storey said anything whatsoever ever like *"Yeah do you know when you get over there we're going to beat fuck out of you right"*. Constable Watson denied the alleged conversation where the Complainant asked them not to beat him with him or Constable Storey replying *"No, fuck it, we're going to beat the fuck out of you right"*. When asked if he said or heard Constable Storey say that, he replied *"Absolutely not"*.

Constable Watson rejected the allegation that he or Constable Storey kicked the Complainant's legs out from under him, threw him to the ground and kicked him when they were in the area between the wagons. He response was *"Absolutely not."* He stated he did not see anyone do that to the Complainant while he was in their custody. He stated that he and/or Constable Storey did not kick the Complainant in the face or the side. Constable Watson reported that neither he nor Constable Storey called the Complainant a *"pussy and a piece of shit."* Constable Watson denied the allegation that he grinded the Complainant's face into the ground or challenged the Complainant to a fight.

## Investigative Report

Constable Watson recalled there was some dialogue with the Complainant as he and Constable Storey tried to obtain the Complainant's name. He said he did not hear anything specific, nor did he say anything to the Complainant or Constable Storey regarding the name. Constable Watson explained that the Complainant told the officers that his driver's licence could be found in the backpack and that Constable Storey confirmed his identity. Constable Watson said he had no knowledge of any conversation regarding the Complainant working as a security guard or any alleged threat to his job.

Constable Watson stated that he did not hear any insults alleged to have been hurled at the Complainant from nearby police officers while they were at the court wagons.

Constable Watson believed that Constable Storey removed the backpack from the Complainant as it was tangled in his flex-cuffs. He thought it was possible that Constable Storey had to cut the backpack to get it off. Constable Watson rejected the allegation that he threatened the Complainant while his backpack was being removed.

Constable Watson reported that his involvement with the Complainant took approximately ten to fifteen minutes. He explained that Detective Dicosola was present during the interaction with the Complainant from the time he and Constable Storey brought him to the court wagons until the Complainant was turned over to Court Officers. He said that Detective Dicosola could see the entire interaction between Constables Storey and Watson while they were with the Complainant at the court wagons.

Constable Watson noted that he was not aware at the time of the Complainant's arrest, but later came to learn later that evening that there was some type Molotov cocktail seized as a result of in the arrest of the Complainant. He further said that the time of his involvement with the Complainant he was not aware that the charge was changed from Breach of the Peace to something else. He said he was subsequently made aware that other charges were laid.

Constable Watson said he "*absolutely (did) not*" strike or kick the Complainant, place his foot on his head or face, or swear or threaten him.

**Investigation**

The investigators undertook the following investigative steps:

- ✦ Interviewed the Complainant.
- ✦ Interviewed Civilian Witness #2.
- ✦ Interviewed the following Respondent Officers:
  - Sergeant Lynn Hughes #4229.
  - Constable Michael Adams #10086.
  - Constable Todd Storey #7457.
  - Constable Luke Watson #8439.
  - Constable David Donaldson #10120.
  - Constable Daniel Lowe #90251.
  - Constable Oliver Simpson #9878.
  - Constable Geoffrey Fardell #9652.
- ✦ Interviewed the following Witness Officers:
  - Inspector Gerhard Meissner #178.
  - Sergeant Jeffrey Alderdice #5046.
  - Inspector Gerald Cashman #2562.
  - Detective Michele Dicosola #99903.
  - Acting Detective Sergeant Chris Kirkpatrick #7554
- ✦ Obtained statements from Constable Simone Huber #99649 and Constable Renato Valdez #8908.
- ✦ Obtained and reviewed the SIU (Special Investigations Unit) Investigative File, which consisted of four volumes of information.
- ✦ Obtained and reviewed two CD's that were sent by the Complainant's counsel with his complaint that contained documents, videos and photographs.
- ✦ Obtained and reviewed Acting Detective Sergeant Kirkpatrick's statement to the SIU

## **Investigative Report**

✚ Obtained and reviewed audio recorded statements, videos and documents received from the Toronto Police Service, which included the following:

- Toronto Police Service video of the booking of the Complainant.
- Toronto Police Service cell video of the Complainant.
- DVD containing PowerPoint slides prepared by Acting Detective Sergeant Kirkpatrick and a video obtained from the Toronto Police Service files that were submitted to them by the public.
- Audio recorded statements with some summaries of the statements taken from Toronto Police Service officers who were interviewed for the Toronto Police Service's section 11 investigation.
- CD with photographs of the Complainant's arrest.
- Toronto Police Service arrest photograph, Prisoner Processing Centre photograph and RIC I photograph of the Complainant.
- Arrest Report and HOT Sheet for the Complainant.
- Notebook entries of the involved officers.
- Excerpt from the Medical Occurrence at the Prisoner Processing Centre dealing with the Complainant.
- Toronto Police Service Injury/Illness Report for the Complainant.
- Prisoner Transport List from the Prisoner Processing Centre dealing with the Complainant.

✚ Obtained and reviewed video and photograph enhancements of a number of videos and photographs that had been obtained pertaining to this investigation.

**Analysis**

On June 26, 2010, Toronto experienced unprecedented public demonstrations and eruptions of violence during the G20 weekend where small groups of protesters committed acts of violence and vandalism. A crowd, which was located on Queen St. W. near Spadina Ave., became aggressive towards the police and threw objects, such as bags filled with excrement and juice bottles containing urine and paint, at the police. In addition, damage was caused to downtown businesses and a number of police vehicles were set on fire.

A number of officers that were interviewed were assigned to College St. and University Ave. and while stationed there they heard police officers who were in distress and were under attack calling for assistance over the police radio. Officers were directed not to respond to the calls for assistance and to remain at their assigned post. Then these officers were told that a large crowd of "*Black Bloc*" members were approaching them. They observed a "*sea of black*" coming towards them and the officers were directed to retreat and run to area of Bloor St. and Avenue Rd. The police then formed up and marched back south through Queen's Park to take back the ground they had lost. As police marched through Queen's Park members of the crowd threw objects at them. Officers described incidents where they observed members of the crowd assaulting officers while they were attempting to arrest other people within the crowd.

The police had used the Long Range Acoustic Device (LRAD) to tell the crowd that the protest was now "*deemed to be unlawful*" and if they did not leave Queen's Park they would be arrested for Obstruct Police.

## Investigative Report

### **Unlawful or Unnecessary Arrest**

*The Complainant alleged that his arrest at Queen's Park on June 27, 2010 was unlawful and unnecessary.*

**Unlawful or Unnecessary Exercise of Authority**, section 2(1)(g)(i) of the Code of Conduct, Police Services Act – without good and sufficient cause makes an unlawful or unnecessary arrest.

### ***Respondent Officers:***

Constable Babak Andalib-Goortani #9859	Sergeant Lynn Hughes #4229
Constable Michael Adams #10086	Constable David Donaldson #10120
Constable Daniel Lowe #90251	Constable Oliver Simpson #9878
Constable Geoffrey Fardell #9652	

1. The Complainant advised that on June 26, 2010 at approximately 3:35 pm he was at Queen's Park to attend the protests for the G20 Summit. He said that he had a water bottle with him and the police "*came charging*" into the crowd. He reported that police knocked the water bottle out of his hand and refused to return it to him. He advised that the water bottle contained mostly water and a "*little bit of whisky.*" He said that the police told him leave.
2. The Complainant said that when the police came towards him he did not yell or say anything aggressive or insulting, nor did he make any aggressive gestures. He advised that earlier on he asked police in the line, "*Where -- what are you guys doing? We're not fighting you, you're attacking us. What are you guys doing? Stop approaching us. Where are you pushing us back to?*"

## Investigative Report

3. The Complainant outlined that he left Queen's Park and went to The Beer Store where he purchased some beer, which he placed in his backpack. He then headed back to Queen's Park. On the way back to Queen's Park he bought a sheet of Bristol board to write on.
4. The Complainant reported that he arrived back at Queen's Park sometime between 4:30 and 6:00 pm. He stated that he walked to the legislative building's front doors where the staircase is located and started making his sign. He said that as he was completing his sign he noticed a line of police officers approaching and he started walking away. He believed that the police were not after him and thought they were just pushing the crowd back as they had done previously.
5. The Complainant advised that as he was walking away he turned around and saw a police officer running towards him. He said that he was startled and started to run. He noted that other officers were chasing him also.
6. The Complainant reported that when the officers were chasing him, he heard one yell out "*Him! Him! Him!*", but his back was towards the officers and he didn't realize they were referring to him. He said that while they approached him they did not give him any verbal directions or information about what they were doing. He assumed the police line would advance and then move back, or that a small group of officers would run out from the line and "*grab*" someone as they had done previously that day. He thought he would move away from police again to get out of their way. He said that one officer grabbed him from behind and they went to the ground.
7. Sergeant Alderdice was a Public Order officer at Queen's Park on June 26<sup>th</sup> and advised that the Complainant was "*basically antagonizing the crowd to attack the police.*" He explained that the Complainant would move towards their lines, taunt his officers with insults and hand gestures in an attempt to engage his officers. He said that he couldn't recall exactly what the Complainant's actions were, but he knew that the Complainant was definitely an instigator and that he was causing a commotion.



## Investigative Report

8. Sergeant Alderdice said that the Complainant was preoccupied with a red cylinder container (water bottle) that was lying at the side of the road and the Complainant was trying to get it back. He advised that the Complainant kept approaching the police lines in attempt to get his container back. He felt the Complainant's actions were "odd" and he had one of his officers secure the container. Sergeant Alderdice examined the container and found that it contained a clear liquid which smelled either of kerosene or something of that nature. He said the liquid was flammable and the Complainant was "definitely arrestable" as he had knowledge of the canister and its contents.
9. Sergeant Alderdice advised that he remembers singling out individuals to be arrested and it was possible that he pointed out the Complainant to be arrested. He said he did not see the Complainant's arrest take place.
10. Constable Santarelli was a Public Order Officer at Queen's Park on June 26<sup>th</sup> and reported that the Complainant was taunting officers. He said that the Complainant was attempting to further incite the crowd at Queen's Park. He outlined that the Complainant was yelling at the crowd *"Don't run. Don't be afraid of the police."* and telling the police to *"Fuck off"*. Constable Santarelli reported that the Complainant said *"He's going to kick our heads in"* and told others in the crowd that they should do this also.
11. Constable Santarelli advised that attempts to arrest the Complainant along with other members of the crowd was made, but every time an arrest team went out to make the arrests the Complainant and the others ran away.
12. Inspector Cashman was a Public Order Unit Commander at Queen's Park on June 26<sup>th</sup> and advised that the Complainant was one of the agitators in the crowd. He said the Complainant was saying to the crowd *"Screw the police. Fuck the police. We don't have to go. We're gonna stand, we're gonna fight"*. He advised that he only remembered the Complainant because he was pointed out to him that he had thrown a canister containing gasoline at the police.

## Investigative Report

13. Inspector Cashman advised that arrest teams were trying to apprehend the Complainant, but when they made the attempt he kept *"taking off"* into the crowd and then he would return again. He explained that the Complainant was going to be arrested for Breach of the Peace as that was what they were arresting everyone for.
14. Inspector Meissner said the Long Range Acoustic Device (LRAD) was used for communicating with the police on the line and communicating with protesters or a crowd of people. He said that the use of the LRAD enabled the police to clearly communicate with large crowds. He said it was clear in the police community that if they were to use force or move into a crowd as a Public Order Unit that there was a requirement that they make every effort to communicate with the crowd.
15. Inspector Meissner said that on Saturday, June 26, 2010 he was called to Queen's Park Circle and at 5:49 pm he operated the LRAD making *"a couple"* of warnings to the crowd.
16. Constable Adams said the LRAD was used by a senior officer to tell the crowd that the assembly was now unlawful. He said the crowd was ordered to disperse and told that the police line would be advancing and anyone who did not leave would be arrested. Constable Donaldson remembered that the LRAD being used, but couldn't recall what was exactly announced, but said that the crowd was ordered to leave and disperse from the area. Constable Donaldson said the crowd was advised that it was a Breach of the Peace and an Unlawful Assembly. Constable Lowe advised the LRAD was used and told the people if they did not leave they would be arrested for Obstruct Police. Constable Simpson recalled numerous announcements made to the crowd telling them to leave and that it was an Unlawful Assembly.

## Investigative Report

17. The Respondent officers related the following in regards to the Complainant being identified to be arrested:

- i. Constable Adams reported that an unidentified staff sergeant advised that anyone arrested would be arrested for Breach of the Peace, Obstructing Justice and Unlawful Assembly. Constable Adams stated that he did not know how the Complainant was identified for arrest. He said that when they were pursuing the Complainant, they were all yelling *"Stop! Stop! You're under arrest"*.
- ii. Constable Donaldson said that he and Constable Adams were west of the main doors of the legislative building at Queen's Park on the south side. He stated they were designated by a PSU (Public Safety Unit) sergeant to arrest the Complainant. He advised that he did not observe the Complainant prior to the time that he was pointed out to be arrested. He said they knew that they were arresting everyone for Breach of the Peace and Unlawful Assembly.
- iii. Constable Lowe said that the Complainant was observed at Queen's Park and he was not leaving. Constable Lowe explained that he observed that the Complainant was stationary, writing a yellow piece of *"cardboard or Bristol board"*. He said that the crowd had been *"ordered to leave the area, ordered to disperse"* and cautioned that they would be arrested for Obstruct Police. He advised that the Complainant *"was disobeying a lawful order"*. In addition, he advised that as the Public Order Unit was moving they were constantly telling people to *"Move."* and the Complainant was not moving; he was stationary writing on a sign.
- iv. Constable Simpson advised that the Complainant was pointed out as a person to be extracted.

## Investigative Report

- v. Constable Fardell advised he was on the front west quadrant of Queen's Park by the legislative building and an officer identified the Complainant for arrest. He did not know who designated the Complainant for arrest

18. Upon reviewing all of the evidence there is not reasonable grounds to believe that the arrest of the Complainant at Queen's Park on June 26, 2010 was unnecessary or unlawful. Based on the statements from the officers there were reasonable grounds to arrest the Complainant for Breach of Peace and other criminal offences such as Obstruct Police and Uttering Threats as the Complainant had threatened to "kick" the police officers' "heads in".

### **Unnecessary Force During the Complainant's Arrest**

*The Complainant alleged that he was assaulted by a number of officers during his arrest.*

**Unlawful or Unnecessary Exercise of Authority**, section 2(1)(g)(ii) of the Code of Conduct, Police Services Act – uses any unnecessary force against a prisoner or other person contacted in the execution of duty.

**Discreditable Conduct** section 2(1)(a)(xi) of the Code of Conduct, Police Services Act - acts in a disorderly manner or in a manner prejudicial to discipline or in a manner likely to bring discredit upon the reputation of the Toronto Police Service.

### ***Respondent Officers:***

Constable Babak Andalib-Goortani #9859

Constable Michael Adams #10086

Constable Daniel Lowe #90251

Constable Geoffrey Fardell #9652

Sergeant Lynn Hughes #4229

Constable David Donaldson #10120

Constable Oliver Simpson #9878

## Investigative Report

1. The Complainant advised that, while he was running, one officer grabbed him, tackled him, and they did *"a little roll on the ground."* The Complainant stated the police pinned his arms down and officers were on him. He advised that he didn't know how many officers were on him at the time because he was face down on the ground.
2. The Complainant reported that once he was pinned down on the ground he kept seeing *"white flashes"*, which led him to believe that he was being struck in the face. The Complainant stated he did not kick or spit at the officers, nor did he resist them in any way. He explained that he kept turning his head so it wouldn't be hit in the same spot twice. He recalled the police telling him to give them his arms but he could not do so because they had him pinned down on his arms. He advised that they repeated *"Give me your arms, give me your arms"*, and he responded *"You're holding my arms; you've got my arms pinned down. I can't move my arms"*. He said they continued to strike him and he described it as *"a bad beating"*.
3. The Complainant explained that he remembered waking up at some point during the arrest and he believed he must have been unconscious for a brief time. When he woke, he realized that the police were putting his arms behind his back. He said that the police put him in the plastic handcuffs and picked him up. The Complainant advised that the police did not tell him at that time why he was being arrested or handcuffed. He noted at this point, that his face was swollen, his cheekbone had puffed up, and he could not see out of one eye.
4. The Complainant explained that there are parts of the arrest he did not remember. He said it was a *"constant barrage of beating."* He said that he knew he was being hit on or about the head and face, but he didn't see who was hitting him. He said he couldn't see the officers' faces because he was face down and he was seeing white flashes with each hit.

## Investigative Report

5. Witness #1 was at Queen's Park on Saturday, June 26, 2010 and video-recorded portions of the Complainant's arrest. He observed an officer give a verbal command and pointed at the Complainant. He advised that he couldn't say exactly what the command was. He advised that the command *"triggered"* almost an entire row of police officers *"to break and start running."* He stated that he was getting ready to run when he clicked his camera off in a *"panic."*
6. Witness #1 said when he realized that the police were focusing on the Complainant he turned his camera on again.
7. Witness #1 outlined that when the police first pointed to the Complainant he had his backed turned to the police. He explained that his video showed that the Complainant was starting to clear out of the area and when he looked over his shoulder he realized that the police were targeting him and he stepped up his pace; *"running."* However, by the time he started to run, there was a police officer who had both hands on the Complainant's shoulders to *"wrestle"* him to the ground. He advised that was when his first video ended.
8. Witness #1 said that he observed punches, kicks and a lot of pulling. He estimated that three punches were thrown at the Complainant by the same police officer. He believed that one of the officers had a hold of the Complainant's leg and was pulling it back in one direction while another officer held onto his head.
9. Witness #2 was at Queen's Park on Saturday, June 26, 2010 and video-recorded portions of the Complainant's arrest. He outlined that he first saw the Complainant when he was standing on the lawn, on the south-west area of Queen's Park. Witness #2 advised that the Complainant had a very distinctive bright sign and noted that he was *"pretty close"* to the line of police officers. He said that suddenly the Complainant was running and police were chasing him.

## Investigative Report

10. Witness #2 explained that he saw ten or twelve police officers running from his left to his right, and then he saw police *"pile on someone"*. He recalled that the Complainant seemed to be running when police *"tackled him"*. Witness #2 said that was when he took his camcorder from his pocket and started filming.
11. Witness #2 advised that he zoomed in on the officer who had a baton. He said that the officer had lifted up his mask and walked to the right and yelled something to the people in the crowd but he didn't hear what the officer said. He stated that he tried to record the officer's face and the officer standing after he got up from hitting the Complainant on the ground.
12. Witness #2 explained that he focussed his filming on one officer because he could see that the officer's arms were moving in a synchronized movement back and forth and he was holding something like a baton. Witness #2 outlined that the video showed the officer holding some sort of baton or stick and he knew the officer had been striking the Complainant with this item.
13. Witness #2 was not able to state with certainty what area of the Complainant's body was struck. He said that he did not see any other officers strike the Complainant.
14. Witness #2 reported that he did not see any injuries to the Complainant and he did not see any injuries to police officers during or after the incident.
15. Witness #2 remarked that it seemed to him that the Complainant was being held to the ground *"pretty securely"* and he did not observe any attempts by the Complainant to strike or bite any of the officers. He said that when the Complainant was on the ground he didn't seem to be resisting. He did not hear any directions given by the police to the Complainant while he was on the ground. Witness #2 stated that he did not hear the Complainant saying anything to the officers. He explained that there was a lot of noise happening in every direction so if something had been said, he probably wouldn't have heard it.

## Investigative Report

16. Witness #3 was at Queen's Park on June 26, 2010 and video-recorded portions of the Complainant's arrest. He said he was approximately fifty feet from the police, walking backwards with his bicycle and filming at the same time.
17. Witness #3 advised that he heard a commotion. When he turned there was a group of approximately seven or eight *"riot police"* arresting the Complainant *"fairly violently"* on the ground. Witness #3 said that there was an officer with a baton *"smashing with it"* and he may have been kicking or punching. He explained that he couldn't remember exactly what occurred.
18. Constable Lowe advised his arrest team came through Public Order lines to arrest the Complainant. He explained that he told the Complainant he was going to be placed under arrest at which point the Complainant ran. Constable Lowe reported that he chased the Complainant and *"caught up to him on a grassy area"*.
19. Constable Lowe advised that the Complainant was running away from him and that he approached the Complainant from the right. He said that as he got closer to the Complainant, the Complainant *"turned and raised his hand up"*, which he perceived to be *"an assaultive gesture"*.
20. Constable Lowe reported that he *"grabbed"* the Complainant around *"his upper waist, maybe the chest area with both hands"* and they both fell to the ground. He said he (Constable Lowe) landed on his right shoulder and, at that point, the momentum flipped him on his back with the Complainant landing on top of him. Constable Lowe stated that the Complainant's back was on his chest and his back was on the grass.
21. Constable Lowe advised that he was concerned that the Complainant was on top of him with the Complainant's back on his chest. He said that he had to use both of his hands *"to get out from underneath"* the Complainant. Constable Lowe stated that he *"feared"* for his safety as all his *"use of force options were exposed"*.



## Investigative Report

22. Constable Lowe said that after he was able to pull his head out from underneath the Complainant the remaining officers from his arrest team came to his assistance. He advised that he didn't know the names of the officers who were in his arrest team except for Constable Fardell. He said that when the other officers were coming to his assistance, he had got out from underneath the Complainant and was in the process of restraining the Complainant. Constable Lowe advised that once the Complainant was restrained he was stood up and taken to a *"hand off team"*.
23. Constable Lowe said he did not *"use any use of force options"* on the Complainant other than tackling him. He stated that he did not punch or use any other strikes to get the Complainant down to the ground or to remove himself from underneath the Complainant. He advised that he did not observe any of the other officers strike the Complainant or use any use of force options on him.
24. Constable Lowe advised that he chipped his bottom tooth from the impact of hitting the ground, but other than that he was not injured. He stated that he did not observe any injuries to the Complainant. He said that, to his knowledge, no one else was injured.
25. Constable Adams said that he observed his team breaching the PSU (Public Safety Unit) lines and pursuing the Complainant. He advised that he was the second or third officer in line who was chasing the Complainant. Constable Adams stated that he did not know how the Complainant was identified for arrest. He said that when they were pursuing the Complainant they were all yelling *"Stop! Stop! You're under arrest"*.
26. Constable Adams said that the first officer who made contact with the Complainant was unknown to him. He advised that when this officer made contact with the Complainant, the Complainant turned, faced the officer and engaged the officer. He explained that the Complainant very quickly *"spun the officer, throwing the officer over his back"*.

## Investigative Report

27. Constable Adams said that he grabbed the Complainant around his head and shoulder area in order to take him to the ground and they all went down in a *"heap"*. He stated that he tried to control the area of the Complainant's right shoulder and upper right arm. He said that, he, along with other officers, were yelling to tell the Complainant that he was under arrest, to put his hands behind his back and to stop resisting. Constable Adams said the Complainant was not complying and continued to manoeuvre his arms and *"strike"* at him and other officers. Constable Adams advised that the Complainant was attempting to get up and was attempting to roll. He noted that he could feel thrashing from the Complainant's lower end *"as if he was trying to kick officers"*.
28. Constable Adams explained that the Complainant did not go to the ground easily and that they had to *"take him down to the ground hard"*. He said he was on the Complainant's right extremity. When he was holding the upper portion of the Complainant's arm, he felt the lower portion of the Complainant's arm from the elbow down *"grasping at me and trying to strike up towards what would be my hip"*.
29. Constable Adams reported that the Complainant ended up in a position that was slightly on his stomach and he was attempting to move the Complainant's right arm behind his back so that he could be handcuffed by the officers who were behind him. Constable Adams said that he had put his left hand on the Complainant's right shoulder when the Complainant turned his head and attempted to bite his left hand. He reported that in response to the Complainant's attempt to bite him, he struck the Complainant *"in the right side of his face"* with his *"hand in a fist"*. Constable Adams said he stopped striking the Complainant after he turned his head in the other direction and was *"no longer going to bite"* him. He said that he struck the Complainant three to four times in the face.

## Investigative Report

30. Constable Adams stated that he also struck the Complainant on the back of his right shoulder area to get his hands behind his back. He advised that he struck the Complainant three to four times in the shoulder prior to the strikes to the face. Constable Adams described the Complainant's behaviour according the Use of Force Model as being *"assaultive"*.
31. Constable Adams said that shortly after striking the Complainant he and other officers were able to get the Complainant's hands behind his back. He advised that another officer zip tied the Complainant's hands and the Complainant was escorted back to the Public Safety Line. Constable Adams stated that he did not tell the Complainant why he was under arrest and did not hear any other officer inform the Complainant of the reason for his arrest. He explained that it was *"too hectic of a scene to sit there and explain to him why he's under arrest"*. In addition, he confirmed that the Complainant's rights to counsel were not read to him at the time of his arrest.
32. Constable Donaldson said that he and Constable Adams were west of the main doors of on the south side of the Ontario Legislature. He stated that they were designated by a PSU (Public Safety Unit) sergeant to arrest the Complainant. He advised that he did not observe the Complainant prior to the time that he was pointed out to be arrested. He said they knew that they were arresting everyone for Breach of the Peace and Unlawful Assembly.
33. Constable Donaldson explained that, when they went out in an attempt to arrest the Complainant, he was yelling at the Complainant as he was running away to *"Stop! Stop! You're under arrest"*.
34. Constable Donaldson advised that, once the Complainant was on the ground, he grabbed onto the Complainant's legs to secure them. He said that he pulled his legs out to lay him flat on the ground to enable a safe and effective arrest.

## Investigative Report

35. Constable Donaldson described the Complainant as being uncooperative. He said that he was on the Complainant's left side and the Complainant had his left arm tucked under him, which concerned him.
36. Constable Donaldson said that he yelled at the Complainant *"Give me your hand! Give me your hand!"* and advised that other officers were yelling at him too. He advised that the Complainant did not say anything in response, but he was not complying. He described the Complainant's behaviour as *"active resistance"*. Constable Donaldson stated that he delivered *"two to three distractionary (closed fist) strikes"* to the Complainant's lower left side in order to get the Complainant's hand.
37. Constable Donaldson couldn't remember if any other officers issued strikes to the Complainant. He explained that he was concerned at the time with the Complainant's hands and his *"eyes were on the hands"*. He said that he could not recall if he observed any injuries to the Complainant. He advised that the Complainant did not complain of injuries when he walked him back to the plain clothes officers. Constable Donaldson said the Complainant was turned over to two unknown plainclothes officers.
38. Constable Simpson said that the PSU directed the Extraction Teams of the individuals to be extracted from the crowd. He advised that the Complainant was pointed out as a person to be extracted. Constable Simpson said his team went out and *"got him to the ground"*. Constable Simpson explained that the Complainant was some distance away from the Extraction Team and took flight when he was pointed out by the PSU. He reported that the Complainant *"resisted"* and did not want to give up his hands. Constable Simpson was concerned as he did not know *"what he had on him"*. Constable Simpson stated *"so it was a series of distractionary strikes, to get his hands"*.
39. Constable Simpson said that he couldn't recall what he did to the Complainant, as opposed to what he did with someone else. He explained that he had a number of extractions within a short period of time and *"just based on the video and so on that I've seen, all I've done is go around and this is just speaking in my extractions, right,*

## Investigative Report

*this person's not giving their hands, it's within their torso area, they're just distractionary strikes, kneeling (kneeing) or closed fist hitting".*

40. Constable Simpson advised that he would give commands to give up their hands while delivering the "distractionary" strikes. He explained that there would be no reason to give a person "distractionary" strikes without letting the person know what you wanted them to do. He agreed that he would either strike the person with his fist or knee in the upper torso. He was asked if he hit the Complainant in the head and he replied *"at no time do I recall hitting anybody in the head"*. Constable Simpson said he did not observe any injuries to the Complainant.
41. Constable Simpson said that based on the series of photographs that he had seen, he could identify Constable Andalib-Goortani, Constable Adams and himself as being present during the Complainant's arrest as members of the Extraction Team who arrested him.
42. Constable Fardell advised that he was at the front west quadrant of Queen's Park by the legislative building when the Complainant was identified for arrest. He said that officers ran after the Complainant and an officer tackled the Complainant, which resulted in the Complainant landing on top of the officer. He stated that is when he stepped in with approximately six other officers while PSU held the area. He advised that he found out later that Constable Lowe was the officer who had tackled the Complainant.
43. Constable Fardell described the Complainant as being *"on all fours"* on top of the Constable Lowe and it looked to him as if the Complainant was trying to get up. Constable Fardell advised that Constable Lowe was on his back and *"all of his use of force options were exposed."* He said that at that point he was just trying to get the Complainant off of Constable Lowe. Constable Fardell stated later in his interview that by the time he arrived, he thought that Constable Lowe managed to roll out from underneath the Complainant. He advised that he then assisted in getting the Complainant under control as he was *"fighting violently"*.

## Investigative Report

44. Constable Fardell said the Complainant was *"told several times to stop resisting"* and to give them his hands, which he didn't. He advised that the Complainant had *"his arm tucked in"* and *"he was told to stop resisting"*; however the Complainant continued to thrash around. He advised that they were trying to hold the Complainant down and he thought that there were maybe four officers on top of him at that point as he believed that there were officers on the Complainant's legs.
45. Constable Fardell advised that he secured the Complainant's shoulder area and he had his knee on top of the Complainant. He said that he then he tried to help get the Complainant's arms out from underneath him. Constable Fardell explained that there were officers on top of the Complainant, and from what he remembered, he was near the Complainant's shoulder area. He said *"I was near his top shoulder area and basically I just pinned him down and kneeled on him because he was still thrashing around"*.
46. Constable Fardell described the Complainant's behaviour when he was on the ground as being *"resistive"*. He said that the Complainant was thrashing around; he was trying to get away and was actively resisting. He said that multiple officers told the Complainant he was under arrest and he was told several times to stop resisting and to give up his hands. He advised that the Complainant was told that he was under arrest for Obstruct (Police).
47. Constable Fardell advised that he held the Complainant down and kneeled on top of him, but he never struck him. He said that he was kneeling on the Complainant and the other officers got his arms. He said he was kneeling on his shoulder area, *"kind of"* holding the back of his shirt and was looking to the west at the crowd to make sure no one interfered with the arrest. He advised that he did not observe anyone *"punch"* the Complainant but he saw officers fighting with his arms. He did not see any officer use their baton when dealing with the Complainant.

## **Investigative Report**

48. Constable Fardell did not hear any inappropriate comments being made towards the Complainant. He explained that his whole interaction with the Complainant was about ten seconds and all he heard was the crowd screaming and every officer telling the Complainant to *"Show me your hands; stop resisting"*. Constable Fardell said he was not hurt or injured from his dealings with the Complainant. He said that he did not observe any injuries to the Complainant.

### **Summary of Video Evidence**

The OIPRD received a number of videos during the investigation of this complaint. The following is a summary of the pertinent videos relating to this complaint. The OIPRD arranged for the video recordings to be digitally enhanced, which allowed investigators to review them frame by frame.

It has been established through the interviews of the Respondent Officers that the following officers actively participated in the arrest of the Complainant:

- ◆ Constable Daniel Lowe #90251
- ◆ Constable Michael Adams #10086
- ◆ Constable Geoffrey Fardell #9652
- ◆ Constable Oliver Simpson #9878
- ◆ Constable David Donaldson #10120
- ◆ Constable Andalib-Goortani #9859

It should be noted, that in the below summaries, the evidence identifying Constable Lowe and Constable Adams is weak and it can only be stated that it is believed to be them. The evidence from interviews, videos and photographs is sufficient to form reasonable grounds that the other officers involved in the Complainant's arrest are as noted in the below summaries.

## Investigative Report

### MVI 0405.mov:

1. This video-recording was taken by Witness #1. The following is a description of the persons and events that appear to be depicted in the recording.
  - a. The Complainant is running from a number of police officers who were pursuing him from an area near the side of the Legislature at Queen's Park. The Complainant was pursued over a flower bed of shrubs onto a grassy area near the portable toilets.
  - b. A uniformed officer, believed to be Constable Lowe, grabs the Complainant by the upper body and right shoulder area from behind. The Complainant is carrying a neon-green Bristol board in his hand and a black and red backpack over his right shoulder.

### MVI 0406.mov:

2. This video was also taken by Witness #1, shortly after the filming of MVI\_0405.mov. The following is a description of the persons and events that appear to be depicted in the recording. The identities of the officers depicted at the beginning of this video are particularly difficult to determine.
  - a. Constable Lowe, is entwined with the Complainant on the ground. Four uniformed officers, Constable Fardell, Constable Simpson, Constable Adams and Constable Donaldson, approach the Complainant and the officer on the ground. Another officer, believed to be Constable Andalib-Goortani, is running behind the four other officers towards the Complainant and Constable Lowe
  - b. Constable Lowe appears to be crawling from underneath the Complainant and the pile of officers. He is kneeling on all fours. Constable Fardell's left knee comes up and appears to go to the area of the Complainant's right shoulder.



## Investigative Report

- c. Eventually, Constable Lowe stands up. The Complainant remains on the ground supporting his upper body by his left elbow. His head is slightly raised. Constable Fardell is kneeling on his left knee with his right leg extended near the head of the Complainant. Constable Fardell reaches back with his right hand, in what appears to be a fist, and punches forward, towards the area of Complainant's head. Constable Fardell, kneeling on both knees, delivers a second punch towards the Complainant's head area. The video recording does not capture any contact between Constable Fardell's hand and the Complainant.
- d. In between the punches from Constable Fardell, the right arm of a police officer in short sleeves, believed to be Constable Adams, swings in a punching motion towards the upper body of the Complainant. The video does not capture any contact between the short-sleeved officer and the Complainant. The short-sleeved officer (Adams) swings his right hand again, in what appears to be in a fist, toward the Complainant. Constable Fardell and the short-sleeved officer appear alternately to be delivering punches.
- e. Constable Andalib-Goortani is holding his extended baton in front of him at the rear of the Complainant. Constable Donaldson is holding the Complainant's foot. The view of Constable Andalib-Goortani is partially obstructed. It appears that Constable Andalib-Goortani is winding up to strike the Complainant.
- f. Constable Fardell is kneeling on his left knee with his right leg extended. The Complainant's face can be seen between Constable Fardell's legs. The Complainant's arm is seen in front of his face. It appears that Constable Donaldson has released the Complainant's foot. At this point in the video both the Complainant's hands are in front of his head and face in a protective gesture.

## **Investigative Report**

- g. Constable Fardell braces himself on his right foot and raises his left knee off of the ground. The Complainant's face is visible between Constable Fardell's legs. It appears that the Complainant's head is pulled back by a gloved hand. Constable Fardell's knee comes into contact with the right side of the Complainant's face. His knee appears to drive the Complainant's face downwards into the ground. Constable Fardell lifts his left knee slightly and again pushes the Complainant's face into the ground.
- h. An officer's (Constable Adams) right knee and leg move in a kneeling motion towards the Complainant's upper body. The video does not capture any contact between the knee and the Complainant.
- i. Constable Fardell's left knee appears to strike the Complainant's face again. However, the image is blurry and does not capture the action clearly.
- j. Constable Fardell is kneeling on both knees. His right hand in a fist moves towards the Complainant. It appears that he may have struck the Complainant again in the head area. Constable Andalib-Goortani walks to the side of the Complainant where Constable Adams and Constable Fardell are located.

### MVI 1557

- 3. This video was taken by witness #3 from the opposite angle of MVI\_406. The following is a description of the persons and events that appear to be depicted in the recording.
  - a. Constable Lowe and the Complainant are tumbling to the ground. The Complainant is falling onto his shoulders with his legs in the air. Constable Lowe is also falling onto his shoulders with his legs in the air. It appears that Constable Lowe ends up underneath the Complainant. Constable Donaldson, Constable Fardell, Constable Adams and Constable Simpson approach the Complainant and Constable Lowe. The Complainant tumbles onto his knees and it appears he is

## **Investigative Report**

on all fours over top of Constable Lowe. Constable Andalib-Goortani arrives on the scene shortly after the other four officers.

- b. The Complainant is rolled onto his left side and his back faces the camera. Constable Donaldson grabs the Complainant's right foot and leg and he pulls the leg out. Constable Fardell's right hand appears to be on the upper back/neck area of the Complainant.
- c. Constable Lowe gets onto his knees beside the Complainant. The Complainant is still on his side. Constable Adams is on the ground near the Complainant's upper body. Constable Adams is on his knees with his hands near the Complainant's head and shoulder area. Constable Adams's left arm reaches across the right of the Complainant's body near the Complainant's head. His upper body appears to be somewhat on top of the Complainant.
- d. The Complainant is on his side with his upper body supported by his left elbow and his head slightly raised. It appears that Constable Fardell strikes the Complainant's head/face area with his right hand in a closed fist. It should be noted that these frames do not clearly capture the action.
- e. Constable Andalib-Goortani is reaching for his extended baton from his duty belt. Constable Lowe is now seen standing up at the side of the Complainant. Constable Simpson comes around Constable Fardell towards the Complainant's back. Constable Adams is crouched over the Complainant.
- f. Constable Donaldson holds the Complainant's leg in a fully extended position. Constable Andalib-Goortani retrieves his fully extended baton from his duty belt and is holding it in his right hand in front of him. Constable Andalib-Goortani swings his baton back across the front of his body while Constable Simpson is coming around towards the Complainant's back.

## Investigative Report

- g. Constable Andalib-Goortani delivers a baton strike to the Complainant's lower back area and then Constable Simpson delivers a knee strike with his right leg towards the Complainant's back area. It should be noted that the video recording does not capture any contact between Constable Simpson's knee-strike and the Complainant.
- h. Constable Adams is on top of the Complainant's upper back and shoulder area. Constable Fardell is kneeling on one knee, lifting up his mask with his right hand and looking away from the Complainant.

### The Star.new Footage

- 4. This video appears to be an excerpt from the video taken by Witness 2. The viewing of the frame to frame excerpts started at frame 218, where the relevant portions of the video commenced. The following is a description of the persons and events that appear to be depicted in the recording.
  - a. A group of officers are on the ground surrounded by Public Order Officers. Constable Andalib-Goortani is on his knees to the left side of the frame. Constable Andalib-Goortani's arms can be seen between the legs of a Public Order officer. His arms move three times in a jabbing motion towards the pile of officers.
  - b. Constable Andalib-Goortani's left hand is gripping his extended baton approximately three quarters of the way towards the tip of the baton. His right hand is not captured in the video. The Complainant's feet are protruding from under the pile of officers.
  - c. Constable Andalib-Goortani stands and starts to walk to the right side of the frame. The video captures only his legs as he is walking. The baton is still extended in his right hand.

## Investigative Report

- d. The video captures the face of the officer who jabbed his baton into the pile of officers. There are reasonable grounds to believe that this officer is Constable Andalib-Goortani. The face is similar to other photographs of Constable Andalib-Goortani. Constable Andalib-Goortani is standing by some Public Order Officers and looking out into the crowd.
- e. Constable Andalib-Goortani raises his left hand and appears to be saying something to the crowd. The Complainant's foot and neon Bristol board can be seen at the left side of video frame near the end of the video.

### G20Queenspark.mpg

- 5. This video, taken by Witness #2, is twelve minutes and nineteen seconds in length. However, only the first minute and four seconds is relevant to the Complainant's arrest. The video contains footage that is described above in the section titled "*The Star.newFootage*". It would appear that the "*The Star.newFootage*" is an excerpt from this video. The following is a description of the persons and events that appear to be depicted in the recording.

- a. In addition to people and events described in "*The Star.newFootage*", this video shows two uniformed police officers lifting the Complainant from the ground and taking him behind police horses. A short uniformed officer follows the two officers with the Complainant. The Complainant speaks to this officer while shaking his head.

## Investigative Report

### ***Constable Andalib-Goortani's Notebook Entries***

The investigators reviewed Constable Andalib-Goortani's notebook entries for June 26, 2010 and they indicate following:

- i. That he did attend Queen's Park on June 26, 2010. However, the notes do not record the time of his attendance at that location.
- ii. That at 1:15 pm, he was at a traffic point at University Ave. and Dundas St. W. for a protest that was leaving Queen's Park and proceeding southbound on University Ave.
- iii. They give details of the various traffic points that he had attended and the information that he received about the crowd's activities including damaging store fronts and police vehicles.
- iv. That he observed a "*black wall of people*" marching westbound on College St. towards University Ave. while he was on a traffic point at that location and that he was ordered to "*retreat and run away from the crowd*" and "*regroup*" at Bloor St. and Avenue Rd.
- v. That he formed a line with approximately 200 other officers and they were ordered to march southbound on University Ave. towards Queen's Park from Bloor St. and Avenue Rd. They were also ordered to wear helmets and gas masks.
- vi. That he was advised that the crowd was unlawfully assembled and that police were to take back the ground that had been previously lost.
- vii. Outline his activities at Queen's Park where he was assigned to an Extraction Team to remove hostile members of the crowd to support the Public Safety Unit.

## Investigative Report

- viii. That the crowd was ordered to leave the area as they were unlawfully assembled. He was yelling and directing the crowd to move back and leave. Some members of the crowd left; however others did not leave and were wearing face coverings and gas masks.
- ix. That bottles, rocks and sticks were thrown towards the police lines.
- x. That he deployed his pepper spray towards two "*assaultive*" males to get them to leave the area. His notes indicate he transitioned to his baton to clear the "*aggressive crowd*".
- xi. That he deployed his baton and issued strikes to unidentified individual(s).
- xii. That he observed members of the crowd kicking police officers in the back while they were attempting to make an arrest and that he ran to assist them, holding the area in support of the officers.
- xiii. His notebook entries do not have any entries specifically referring to the Complainant.

### ***The Complainant's Injuries:***

1. The Complainant advised that he suffered a broken nose and broken cheekbone as a result of his interaction with the police officers. He said that the broken cheekbone caused pain when chewing and when he was sleeping on that side at night. He reported that despite having surgery on his nose he still had a little trouble breathing through his nose.

## Investigative Report

2. The Complainant provided photographs of his injuries and they depicted the following:

- i. Full face photograph which showed redness and bruising around the eyes and nose of the Complainant. It also appeared that there were red marks on his forehead.
- ii. Another full face photograph, which showed the redness and bruising around his eyes and the red marks on his forehead.
- iii. Photograph of the left side of his face, which shows red marks on the left side of his forehead and bruising and redness around his left eye.
- iv. Photograph of three bruises on his right lower torso.
- v. Photograph of the area of his nose which is heavily bandaged. (This photograph was taken after his reconstructive surgery)

3. The Prisoner Processing Centre (PPC) photograph taken of the Complainant shows bruising around the eyes, nose and forehead. The Toronto Police Service RIC photo showed bruising to the right side of the Complainant's forehead and around his eyes.

4. The Complainant received treatment for his injuries at the Toronto East General Hospital in the morning of June 27, 2010. The medical report advised that the Complainant had *"comminuted minimally displaced fractures of the bilateral nasal bones"* and *"a fracture through the posterior aspect of the nasal septum with focal angulation apex left"*. In addition he had a *"comminuted fracture of the right zygoma [cheekbone], which is mildly displaced"*.



***Life in a day Adam Nobody - YouTube video***

<http://www.youtube.com/watch?v=tTAcNgoragY>

1. The complainant was interviewed on July 24, 2010 by an unknown male and this interview was posted on YouTube on July 30, 2010.
2. In the interview the Complainant described his experience at Queen's Park on June 26, 2010. His comments in the interview are generally consistent with his statements to OIPRD and in the *Jama voir dire*. However, in the YouTube interview, the Complainant stated that, when he was initially at Queen's Park, he observed police beating people and police horses charging people. He stated, with a raised fist in a jeering gesture, that he repeatedly yelled at *police* "Get those animals off those horses". He said he was "appalled" by what he saw and that he was "verbally appalled" such that he yelled at police "What are you doing? Stop. Stop charging us, we're not charging you. Stop charging us we're in the designated protest area." He noted that he didn't get caught at that time and left the park.
3. The Complainant's YouTube interview revealed similar information to that which he provided to investigators. He said that he left the park to buy beer and also bought Bristol board; returned to Queen's Park and couldn't find his friend. He said that he was not intoxicated and had in fact, not opened the beer that he had purchased. He noted that he was in a "fun" mood as indicated by his comical sign "Let Donna Graduate", which relates to a storyline from a television show.
4. The Complainant's description of the arrest in the YouTube interview is very similar as to the description he provided to OIPRD investigators. He said that he was at the stoop near the legislative building writing his sign when he saw a line of police coming in his direction and he was a bit scared. He said that he walked away and as he looked behind him, he saw an officer running straight at him. He ran, the officer "dive tackles" him

## Investigative Report

and there were a "bunch of cops" beating, kicking and punching him. He said that he had a broken nose and broken cheekbone.

5. The Complainant further described being walked by two plain clothes officers who took him over to court vehicles and threatened him, swore at him, and ground his face into the pavement while they searched his bag. The words used to describe their threats and the description of their actions is almost identical to the description given in the *Jama* testimony and in his statement to OIPRD investigators.
6. The Complainant also described the scene at the court vehicles relating to the other officers resting and in the general area surrounding the court vehicles. He referred to their taunts of "*Whose streets now?*" and ridiculing him. The complainant noted in his YouTube interview that he was charged with assault because, while police were on top of him "beating" him, he turned his head away so they couldn't hit him in the same spot twice.

### **Findings - Conduct During the Complainant's Arrest:**

1. Upon reviewing the totality of the evidence, there are reasonable grounds to believe that the amount of force used by the police during the arrest of the Complainant was excessive. There is a sufficient body of evidence to form reasonable grounds that the following officers committed the misconduct of Unlawful or Unnecessary Exercise of Authority:

Constable Babak Andalib-Goortani #9859	Constable Geoffrey Fardell #9652
Constable Michael Adams #10086	Constable David Donaldson #10120
Constable Oliver Simpson #9878	

2. In addition, there are reasonable grounds to believe the five officers listed above committed the misconduct of Discreditable Conduct to wit, they acted in a manner likely to bring discredit upon the reputation of the Toronto Police Service.

## Investigative Report

3. However, there are not reasonable grounds to believe that the force used by Constable Lowe during the initial apprehension of the Complainant and taking to the ground was unlawful and unnecessary. The evidence outlines that Constable Lowe tackled the Complainant to effect a lawful arrest due to the Complainant running away from the officers trying to arrest him.
4. Sergeant Hughes was the supervisor for four of the officers (Constable Simpson, Constable Adams, Constable Donaldson and Constable Andalib-Goortani) involved in the Complainant's arrest. She advised that she did not remember the arrest of the Complainant and that she never "touched" or spoke to him. Any evidence that Sergeant Hughes may have interacted with the Complainant is weak and there are not reasonable grounds to believe she committed misconduct in her dealings with this matter.

### **Unnecessary Force & Discreditable Conduct During the Complainant's Processing**

*The Complainant alleged that Constable Storey and Constable Watson assaulted him while they processed him. The Complainant further alleged the two officers used profane, abusive and threatening language towards him.*

**Unlawful or Unnecessary Exercise of Authority, section 2(1)(g)(ii) of the Code of Conduct, Police Services Act** – uses any unnecessary force against a prisoner or other person contacted in the execution of duty.

**Discreditable Conduct section 2(1)(a)(xi) of the Code of Conduct, Police Services Act** – acts in a disorderly manner or in a manner prejudicial to discipline or in a manner likely to bring discredit upon the reputation of the Toronto Police Service.

**Discreditable Conduct, section 2(1)(a)(v) of the Code of Conduct, Police Services Act** – uses profane, abusive or insulting language or is otherwise uncivil to a member of the public.

## Investigative Report

### ***Respondent Officers:***

Constable Todd Storey #7457    Constable Luke Watson #8430

1. The Complainant reported that, once he was placed in handcuffs, the police walked him back to another area where they were approached by two officers in plainclothes who took custody of him. He learned later that these officers were Constables Storey and Watson.
2. The Complainant advised that Constables Storey and Watson grabbed him by his handcuffed arms and twisted them behind his back, which caused him pain. The Complainant reported that, while he was being taken to the court vehicles, Constable Watson used profane language and threatened to *"beat the fuck out of"* him.
3. The Complainant reported that, as he was escorted towards the court wagons, the officers indicated they were going to take him between the wagons where no one could see them. He advised that the officers said *"Okay, let's go over there"*, and he replied, *"Guys, come on, this is ridiculous. You already got me"*. The officers reportedly then told him. *"Shut the fuck up. Let's fucking go"*.
4. The Complainant said when they arrived at the area between the court wagons, the officers kicked his feet out from under him and he landed on the ground beside a pile of horse feces. He said that while he was still in handcuffs they kicked him in the side and in the face. The Complainant advised that while this was taking place, Constable Watson insulted him and berated him, saying that he stinks and called him vulgar names such as *"pussy"* and *"a piece of shit"*.

## Investigative Report

5. The Complainant stated that Constable Storey searched his backpack. He explained that Constable Storey found an unopened twelve-pack of beer in his backpack. He reported that Constable Storey pulled out a knife, punctured the cans and poured out the beer. He also said that Constable Storey used the same knife to cut off this belt, which was a shoe lace looped around twice.
6. The Complainant reported that Constable Watson placed his foot on his face and pushed his face into the ground. He advised that, while Constable Watson had his foot on his face, he was challenging the Complainant to get up and fight him. The Complainant noted that Constable Storey did not threaten him; however he did kick him while he was on the ground. He said he did not try to get up and was not resisting the officers in any way.
7. The Complainant said that the officers asked him his name, which he provided as "*Adam Nobody*". He explained that Constable Watson pushed his foot down on his face even harder and crushed his head into the ground. He said that Constable Watson told the Complainant to "*Stop being a smart ass*". He said that the officers found his driver's license, which confirmed that he had provided his legal name.
8. The Complainant added that, when the officers found his security guard license, they threatened to go to his employer to get him fired.
9. The Complainant explained that, at this point, the officers picked him up off the ground and Constable Storey informed another officer of the contents of the backpack while the other officer wrote it down. The Complainant said his photo was taken with a white board. He noted that at the court wagons his plastic cuffs were cut off and the court officers put steel handcuffs on him. He said that, while his cuffs were being changed, Constable Watson stood in front of him, eye to eye, and taunted him, "*Fucking hit me man, fucking hit me. I want you to fucking hit me.*" He said that he replied, "*Come on. I'm not going to hit you*", and he was placed in the court wagon.

## Investigative Report

10. Special Constable Ellies said that at no time did he observe any officers between two prisoner vans dealing or struggling with a prisoner on the ground. He further stated that at no time did he see any plain clothes officers delivering blows, strikes, punches or kicks to any of the prisoners whom he dealt with.
11. Special Constable McCurdy stated that he did not have any recollection of the Complainant. He said he did not recall seeing officers go back between the court vehicles with a prisoner. Further, he said he did not recall seeing any prisoners resisting while they were being brought back to the Court vehicles. Special Constable McCurdy said he did not recall seeing any police officers kick, punch, strike or deliver any kind of blows to any of the prisoners before they were turned over to him.
12. The Complainant said there were thirty or forty uniformed officers in the area of the court wagons and they insulted him while he waited to be placed in the court wagon.
13. Constable Storey said that the first time he saw the Complainant was approximately 8:00 pm. He reported that he saw two Toronto Police Service uniformed officers coming from the west side of Queen's Park over a grassy area with the Complainant. He said there was an officer on either side of the Complainant and he and Constable Watson ran up to the uniformed officers to take custody of him. He advised that the Complainant was flexed cuffed to the rear when he and Constable Watson received him from the uniformed officers.
14. Constable Storey described the Complainant as being "*relatively cooperative*" but "*mouthy*". He advised that they walked him to the prisoner transport wagons.
15. He said that the officers who turned over custody of the Complainant yelled out their badge numbers and advised that the Complainant was arrested for Breach of the Peace. He stated that he heard one of the uniformed officers give the badge number 10924.

## Investigative Report

16. Constable Storey said that they told the Complainant he was under arrest for Breach of the Peace and he believed that Constable Watson read him his rights to counsel.
17. Constable Storey advised that, when they were walking the Complainant to the prisoner transport vehicles, he was "*swearing*" at them and was being "*a bit ignorant*".
18. Constable Storey said that the Complainant had redness and maybe light bruising to his face. He denied threatening to "*beat*" the Complainant while he was being taken over to the court vehicles.
19. Constable Storey said they did not kick the Complainant when they took him between the prisoner transport vehicles. He stated that they placed him face down on the ground in order to search him. He said that, if anything, when they put him down on the ground, they told him what they were doing and had a hold of him when he went down to the ground. He said that the Complainant might have fallen maybe an inch, but at no time did he kick the Complainant. Constable Storey advised that neither him nor Constable Watson called the Complainant "*a pussy and a piece of shit*" and told him that "*he stinks*".
20. Constable Storey said that neither he nor Constable Watson had their foot on the Complainant's face grinding it into the ground. He advised that Constable Watson never challenged the Complainant to a fight.
21. Constable Storey outlined that the Complainant's backpack contained clothes and some beer cans that were leaking. Constable Storey said that he did not puncture the Complainant's beer cans with a knife and dump them out. Constable Storey denied cutting the Complainant's belt off with a knife, but said that he did cut the straps to the Complainant's backpack to remove it from him.

## Investigative Report

22. Constable Storey outlined that when they asked the Complainant for his name, and when the Complainant replied, he did question him about his name. Constable Storey advised that he probably told the Complainant to *"Stop jerking us around. Stop being a goof. What is your name?"* He reported finding the Complainant's identification that confirmed that he was giving his legal name. Constable Storey said that he did not use any profanity when he was questioning the Complainant about his name. Constable Storey was asked if he said *"Stop being a smart ass. Stop being a smart ass. Shit this guy is really Nobody"* and Constable Storey advised that he could probably see himself saying *"smartass"*.
23. Constable Storey confirmed that the Complainant had a security licence in his wallet but denied threatening that he would report the Complainant and cause him to lose his job.
24. Constable Storey stated that, when he walked with the Complainant to be photographed, there were PSU officers in the area. He reported that the Complainant *"got a bit vocal"* and *"a bit ignorant"* with the PSU officers and there was *"banter"* going back and forth. Constable Storey said he did not remember exactly what was said, but thought some of the banter involved the PSU officers saying that they had been looking at him for the last two hours and it was great to see him because he was one of the main instigators.
25. Constable Watson reported that the first time he had interacted with the Complainant was when he saw two uniformed officers walking him towards the area where he was standing to receive arrested persons. Constable Watson advised that he and Constable Storey walked to the uniformed officers and they took custody of the Complainant. Constable Watson said that he asked the officers the reason for the Complainant's arrest and was told that he was arrested for Breach of the Peace. He obtained a badge number from the arresting uniformed officer, which later turned out to be invalid.



## Investigative Report

26. Constable Watson reported that, as he and Constable Storey were walking the Complainant back out of the line, he advised the Complainant that he was arrested for Breach of the Peace. He remembered informing the Complainant of his right to a lawyer and cautioned him that anything he said could be used against him in court.
27. Constable Watson denied that they twisted the Complainant's arms after they took custody of him.
28. Constable Watson advised that he and Constable Storey found a safe place to search the Complainant, which was in a space that was between the two wagons. Constable Watson outlined that the Complainant was sat down between the front wheels of the two wagons. He said the Complainant called them names, but was otherwise compliant and offered no resistance.
29. Constable Watson explained that Detective Dicosola asked the Complainant for his name and he replied "*Adam Nobody*". Constable Watson said that they did not believe the Complainant. He thought that Constable Storey obtained the Complainant's identification and informed Detective Dicosola that the Complainant's full legal name was in fact Adam Nobody.
30. Constable Watson said that Constable Storey passed him a "*couple*" cans of beer that were with the Complainant's property. He said that the beer cans were leaking and he discarded them near a grassy area.
31. Constable Watson remembered that the Complainant had some "*slight swelling around his eyes*" and early signs of bruising. He believed that there was also a small scratch on his left cheek. He said that the Complainant did not complain of injuries.
32. Constable Watson reported that he made no threatening or aggressive comments towards the Complainant. He rejected the allegation that he or Constable Storey kicked the Complainant's legs out from under him, threw him to the ground and kicked him. He

## Investigative Report

stated that neither he nor Constable Storey kicked the Complainant in the face or the side. Constable Watson advised that neither he nor Constable Storey called the Complainant a *"pussy and a piece of shit."* Constable Watson denied the allegation that he grinded his face into the ground or challenged the Complainant to a fight.

33. Detective Dicosola reported that his first interaction with the Complainant was when he observed Constable Storey and Constable Watson walking towards him with the Complainant in their custody. He said that Constables Storey and Watson each held one of the Complainant's arms and were walking him towards the court vehicles. He reported that the Complainant was handcuffed behind his back with plastic zip ties.
34. Detective Dicosola advised that he did observe injuries to the Complainant's face, but could not give a detailed description of them, explaining that he knew that a photograph of the Complainant would be taken, which would capture his injuries.
35. Detective Dicosola advised that he observed Constable Storey and Constable Watson sit the Complainant on the ground and then lay him down in the prone position. He said this occurred in the area of the court vehicles and that no force was used to place the Complainant on the ground. He described the Complainant as being compliant.
36. Detective Dicosola reported that the Complainant did have a backpack in his possession, but was not sure how it was removed from him. He did observe Constable Storey search the Complainant's backpack and observed *"spoiled or leaking"* cans of beer being removed from the backpack. He said he did not observe Constable Storey or Constable Watson puncture the beer cans.
37. Detective Dicosola said that Constable Storey and Constable Watson were polite with the Complainant. He explained that the Complainant was not forthcoming with information, but he was not belligerent. He denied the allegations that rude, profane or threatening words or gestures were made towards the Complainant by himself, Constable Storey or Constable Watson.

## Investigative Report

38. Detective Dicosola advised that the Complainant was never assaulted in his presence. He said that the Complainant's allegations that he was "*beaten*" while he was in their custody at the court vehicles were "*completely false*".
39. The description of the Complainant's injuries as described in a previous section of the analysis was also reviewed by investigators for the allegations involving Constable Storey and Constable Watson.

### ***Jama Transcripts:***

1. Investigators reviewed transcripts of testimony given in an Ontario Superior Court of Justice *voir dire* in the case of R v. Abbas Jama. Transcripts of evidence given by the Complainant, Detective Constable Storey, Detective Constable Watson and Detective Dicosola were reviewed.
2. The Complainant's evidence at the *voir dire* was consistent with his statements to OIRPD investigators insofar as the force used on him by a number of officers while he was on the ground. His evidence was also consistent with statements given to OIRPD investigators regarding the actions and verbal threats from Detective Constables Storey and Watson.
3. The Complainant also gave similar evidence at the *voir dire* as he did to OIRPD investigators about being photographed by a black officer in uniform at the front of the court vehicle, and he said this was the officer to whom Detective Constables Storey and Watson provided his arrest information, and who was filling out the form. The Complainant stated in his evidence that the court vehicles were parked in a parallel position.

## Investigative Report

4. The Complainant's evidence at the *voir dire* and his statement to OIPRD investigators both indicated that Detective Constables Storey and Watson kicked his feet out from under him when they placed him on the ground at the court vehicles. His statement to the Special Investigations Unit (SIU), at three different times, was that the officers threw or placed him on the ground.
5. The Complainant's *voir dire* testimony revealed some uncertain information about the arrest itself and the location of his backpack. The Complainant testified that, during his interaction with Public Order officers in the park, he participated in activity when police ordered the crowd to move back and the crowd did not move back; police charged forward and people ran away. When police horses were utilized to clear the crowd, he reported that he chanted to police "*Get those animals off those horses*" and he said he dropped a water bottle (containing water and whisky) and wanted it back from police.
6. At the *voir dire* he testified that the backpack was off his back while he wrote on his sign; he said when he saw police running in his direction he started to walk away placed one strap of the backpack on his right shoulder. When he realized police were running and he started to run, the backpack was hanging on his right shoulder. He said that the backpack fell off his shoulder when he fell to the ground. He was not wearing it at the time he was on the ground with police.
7. The *voir dire* testimony from Detective Dicosola and Detective Constables Storey and Watson is consistent with the time of arrest of 8:00 pm. Their testimony was also consistent with the belief that Detective Constable Storey cut the backpack straps in order to remove it from the Complainant's back as it was tangled in the zip-ties. All three officers said that the Complainant was compliant with instructions to sit down, when they laid him down, and when he was taken for a photograph and placed in a court vehicle. They reported that no force was used other than verbal direction and a hand on the shoulder to help him get down or up. In addition, their statements to OIPRD and in the *Jama* matter were consistent with respect to the beer cans having been leaking and not punctured by Detective Constable Storey and all steadfastly

## Investigative Report

rejected allegations of verbal threats, profanity and physical assault to the Complainant. All the evidence from officers in the *voir dire* is consistent with an arrest time of approximately 8:00 pm.

8. A noteworthy issue in the *voir dire* testimony relates to the backpack. During the *voir dire* proceedings, Mr. Jama's counsel produced in the courtroom what is identified as the Complainant's backpack. The Complainant's evidence in court was that he received his backpack from police upon his release on June 28, 2010 and had been using it regularly since then. The backpack straps were intact and the Complainant testified that they'd never been cut. There seems to be some confusion about how the backpack came to be in police possession. The Complainant testified that when he was arrested by the group of officers he asked those who escorted him where his backpack was and an unidentified officer told him that they had it. Constable Storey testified that he cut the straps off to remove the backpack as it was tangled up with the Complainant's flex-cuffs; Detective Constable Watson said he did not recall how the backpack was removed and thought he had seen it worn on the Complainant's back when he was handed off from the uniform officers, and Detective Dicosola remembered a backpack but did not recall any details of how it was worn or removed.

### **Findings:**

1. The Complainant's evidence conflicts with the evidence of Constable Storey, Constable Watson and Detective Dicosola as to what occurred during his processing and prior to being placed in the prisoner transport vehicle. In addition, the Complainant gave testimony at a *voir dire* that conflicted with the statement he gave to the SIU and to the OIPRD investigators relating to his involvement with the Constables Storey and Watson. There is no independent evidence to corroborate what occurred during the processing of the Complainant. As a result, there is not a sufficient body of evidence to form reasonable grounds that Constable Storey and Constable Watson committed the following misconducts:

## Investigative Report

- i. Unlawful or Unnecessary Exercise of Authority – uses any unnecessary force against a prisoner or other person contacted in the execution of duty.
- ii. Discreditable Conduct – uses profane, abusive or insulting language or is otherwise uncivil to a member of the public.
- iii. Discreditable Conduct - acts in a manner likely to bring discredit upon the reputation of the Toronto Police Service.

### ***Deceit***

*The Complainant alleged that Constable Storey made a false, misleading or inaccurate statement which led to the Complainant with being criminally charged with assaulting Constable Storey.*

**Deceit section 2(d)(ii) of the Code of Conduct, Police Services Act** – wilfully or negligently makes a false, misleading or inaccurate statement pertaining to official duties.

### ***Respondent Officer:***

Constable Todd Storey #7457

1. The Complainant outlined in his complaint that he was charged with Obstruct Police and Assault – Resist Arrest. He said that both charges were withdrawn on October 1, 2010. He advised that the information alleged that he assaulted Constable Storey on June 27, 2010 and advised that he was already at the Prisoner Processing Centre (PPC) when the assault occurred.
2. The investigators examined the Arrest Report and the HOT Sheet – Record of Arrest and both indicate that the date of the offence was June 26, 2010. It would appear that the date of June 27, 2010 on the information for the Assault Police charge was an error.

## Investigative Report

3. Constable Storey said he found out "*much later*" that the detective who completed the paperwork for the Complainant had him named as a victim of an assault by the Complainant. He advised that he did not know how that came to be (that the Complainant assaulted him). He thought the detective doing the paperwork saw his badge number and assumed the Complainant had assaulted him. Constable Storey advised that it was an error listing him as the victim of an assault by the Complainant.
4. Constable Storey explained that the process regarding HOT Sheets – Records of Arrest and a copy of this report goes to the Investigations Section back at the PPC. He advised that there is a page on the HOT Sheet that contains the Complainant's tombstone information and there is another page that has a synopsis of what occurred including the reason for arrest. Constable Storey said the detective would base the charges on the information contained on the HOT Sheet.
5. The investigators reviewed the HOT Sheet-Record of Arrest for the Complainant and found that the synopsis did not contain any information about what allegedly occurred. The synopsis had the following notations, "*Obstruct Police, Assault Police, Explosive Device, Facial Injuries*". There was no information that would support the charges. The area where the officer who provided the Complainant with their rights to counsel was blank.
6. Detective Wright advised that on June 27, 2010 he was working at the Prisoner Processing Centre on Eastern Ave. in Toronto. Detective Wright explained that he received a plastic envelope containing an arrest sheet, a HOT sheet and a photograph of the Complainant. He outlined that the paperwork indicated that the Complainant was arrested for Obstruct Police, Assault Police and an "*explosive device*".
7. Detective Wright explained that he understood that the Complainant was at Queen's Park when he was arrested. He said that the officers that took physical control of the Complainant were not identified, but according to the HOT sheet the officers who transported and "*booked*" him were badge numbers 10924 and 7457. He believed badge

## Investigative Report

#7457 was Detective Constable Todd Storey. Badge number 10924 did not exist and it was found that this was an error when Constables Storey and Watson incorrectly noted the badge number of one of the uniformed officers who gave them custody of the Complainant.

8. Detective Wright said that he noted in the reports, that Detective Constable Storey was the officer who was assaulted by the Complainant. He explained that he had asked Detective Constable Storey for his notes, and on a subsequent date, he was informed by Detective Constable Storey that he was not the officer assaulted. Detective Constable Storey told him it was a Public Order Unit (officer) and that he should modify the paperwork to show that it was an unknown officer who was assaulted by the Complainant. Detective Wright understood that the explosive device was a "*Molotov cocktail*" but didn't have any information relating to the charge, and, as a result did not lay the charge.
9. The process employed by the Toronto Police Service for the G20 summit for recording arrests and the circumstances surrounding arrests was flawed. This issue is spoken to in the OIPRD's Systemic Report. There are not reasonable grounds to believe that Constable Storey was being deceptive in the completion of the HOT Sheet – Record of Arrest and it was more a matter of deficiency in the paperwork and in the system of recording the arrests during the G20 Summit.



**Conclusion**

**Unlawful or Unnecessary Arrest**

***Unsubstantiated***

Upon review and analysis of all available information, the Director has concluded **there is an insufficient body of evidence** to establish that Reasonable Grounds exist that misconduct occurred in respect to the following allegation:

That Constable Andalib-Goortani #9859, Sergeant Hughes #4229, Constable Adams #10086, Constable Donaldson #10120, Constable Lowe #90251, Constable Simpson #9878 and Constable Fardell #9652 of the Toronto Police Service committed the misconduct of Unlawful or Unnecessary Exercise of Authority, section 2(1)(g)(ii) of the Code of Conduct, Police Services Act – without good and sufficient cause makes an unlawful or unnecessary arrest is **unsubstantiated**.

**Unnecessary Force & Discreditable Conduct During the Complainant's Arrest**

***Substantiated***

Upon review and analysis of all available information, the Director has concluded that **Reasonable Grounds exist** to conclude that misconduct occurred in respect to the following allegations:

That Constable Andalib-Goortani #9859, Constable Adams #10086, Constable Donaldson #10120, Constable Simpson #9878 and Constable Fardell #9652 committed the misconduct of Unlawful or Unnecessary Exercise of Authority, section 2(1)(g)(ii) of the Code of Conduct, Police Services Act – uses any unnecessary force against a prisoner or other person contacted in the execution of duty is **substantiated** and is of a **serious nature**.

## Investigative Report

And further;

That Constable Andalib-Goortani #9859, Constable Adams #10086, Constable Donaldson #10120, Constable Simpson #9878 and Constable Fardell #9652 committed the misconduct of Discreditable Conduct, section 2(1)(a)(xi) of the Code of Conduct, Police Services Act - acts in a disorderly manner or in a manner prejudicial to discipline or in a manner likely to bring discredit upon the reputation of the Toronto Police Service is **substantiated** and is of a **serious nature**.

### ***Unsubstantiated***

Upon review and analysis of all available information, the Director has concluded **there is an insufficient body of evidence** to establish that Reasonable Grounds exist that misconduct occurred in respect to the following allegations:

Sergeant Hughes #4229 and Constable Lowe #90251 of the Toronto Police Service committed the misconduct of Unlawful or Unnecessary Exercise of Authority, section 2(1)(g)(ii) of the Code of Conduct, Police Services Act - uses any unnecessary force against a prisoner or other person contacted in the execution of duty is **unsubstantiated**.

And further;

That Sergeant Hughes #4229 and Constable Lowe #90251 the Toronto Police Service committed the misconduct of Discreditable Conduct, section 2(1)(a)(xi) of the Code of Conduct, Police Services Act - acts in a disorderly manner or in a manner prejudicial to discipline or in a manner likely to bring discredit upon the reputation of the Toronto Police Service is **unsubstantiated**.

**Unnecessary Force & Discreditable Conduct During the Complainant's Processing**

***Unsubstantiated***

Upon review and analysis of all available information, the Director has concluded **there is an insufficient body of evidence** to establish that Reasonable Grounds exist that misconduct occurred in respect to the following allegations:

Constable Storey #7457 and Constable Watson #8430 of the Toronto Police Service committed the misconduct of Unlawful or Unnecessary Exercise of Authority, section 2(1)(g)(ii) of the Code of Conduct, Police Services Act - uses any unnecessary force against a prisoner or other person contacted in the execution of duty is **unsubstantiated**.

And further;

That Constable Storey #7457 and Constable Watson #8430 of the Toronto Police Service committed the misconduct of Discreditable Conduct, section 2(1)(a)(v), Police Services Act – uses profane, abusive or insulting language or is otherwise uncivil to a member of the public is **unsubstantiated**.

And further:

Constable Storey #7457 and Constable Watson #8430 of the Toronto Police Service committed the misconduct of Discreditable Conduct, section 2(1)(a)(xi) of the Code of Conduct, Police Services Act - acts in a disorderly manner or in a manner prejudicial to discipline or in a manner likely to bring discredit upon the reputation of the Toronto Police Service is **unsubstantiated**.

## Investigative Report

### Deceit

#### *Unsubstantiated*

Upon review and analysis of all available information, the Director has concluded **there is an insufficient body of evidence** to establish that Reasonable Grounds exist that misconduct in respect to the following allegation:

That Constable Storey #7457 of the Toronto Police Service committed the misconduct of Deceit section 2(d)(ii) of the Code of Conduct, Police Services Act – wilfully or negligently makes a false, misleading or inaccurate statement pertaining to official duties is **unsubstantiated**.

**Referenced Information**

**Primary Police Duties & Ancillary Police Powers Doctrine**

The duty to preserve the peace is a recognized police role that is enshrined in every policing act and municipal policing contract. To carry out this duty, both the common law and the Criminal Code have long provided the police with the power to arrest for breach of the peace. The power has been described as "perhaps the central concept of our public order law,"<sup>1</sup> based as it is on maintaining order. For example, in *R. v. Dedman*<sup>2</sup> and in *R. v. Godoy*,<sup>3</sup> the court indicated that, at common law, the principal duties of police officers are the preservation of the peace, the prevention of crime, and the protection of life and property, and that police powers derive from the nature and scope of those duties.

The *ancillary police powers doctrine* recognizes that the police must generally engage in some form of action to fulfill their public duties. Police are under a duty to maintain the public peace and prevent crime. They also have a general duty to "protect life" which extends beyond their crime prevention and peacekeeping functions. In determining whether police conduct comes within the common law ancillary doctrine, the nature of the police duty giving rise to that conduct is important. The court has noted that police conduct which may not be justified as ancillary to the performance of one duty may be justified if the police are performing some other duty.<sup>4</sup>

Where the police rely on ancillary police power, to justify police conduct that interferes with individual liberties, a two-pronged case-specific inquiry must be made. First, the prosecution must demonstrate that the police were acting in the exercise of a lawful duty when they

<sup>1</sup> Smith, A.T.H. "Breaching the Peace and Disturbing the Public Quiet" [1982] P.L. 212 at 213. See also Esmonde, Jackie (2002) "The Policing of Dissent: The Use of Breach of the Peace Arrests at Political Demonstrations" 1 J.L. & Equality 246 [Esmonde, (2002)].

<sup>2</sup> [1985] 2 S.C.R. 2.

<sup>3</sup> [1999] 1 S.C.R. 311.

<sup>4</sup> *R. v. Godoy* (1997), 115 C.C.C. (3d) 272 at 278 (Ont. C.A.), aff'd, S.C.C. December 2, 1998.

## Investigative Report

engaged in the conduct in issue. Second, the prosecution must demonstrate that the impugned conduct amounted to a justifiable use of police powers associated with that duty.<sup>5</sup>

### ***Police Powers and Balancing Individual Rights:***

*"The balance struck between common law police powers and individual liberties puts a premium on individual freedom and makes crime prevention and peacekeeping more difficult for the police. In some situations, the requirement that there must be a real risk of imminent harm before the police can interfere with individual rights will leave the police powerless to prevent crime. The efficacy of laws controlling the relationship between the police and the individual is not, however, measured only from the perspective of crime control and public safety. We want to be safe, but we need to be free."<sup>6</sup>*

The ancillary powers doctrine is "the established means by which the courts must draw the line between police conduct which is lawful and that which amounts to an unconstitutional interference with individual liberties."<sup>7</sup> Any interference with individual liberty must be justified as necessary.<sup>8</sup> When taking proactive measures to maintain the public peace, the requisite necessity arises only when there is a real risk of imminent harm. Before that point is reached, proactive policing must be limited to steps which do not interfere with individual freedoms.<sup>9</sup>

### **Breach of the Peace: S. 30 & 31**

Sections 30 and 31 of the current Criminal Code provide an arrest power for a breach of the peace:

30. Every one who witnesses a breach of the peace is justified in interfering to prevent the continuance or renewal thereof and may detain any person who commits or is about to join in or to renew the breach of the peace, for the purpose of giving him into the custody of a peace officer, if he uses no more force than is reasonably necessary to prevent the continuance or renewal of the breach of the peace or than is reasonably proportioned to the danger to

<sup>5</sup> *R. v. Clayton*, [2007] S.C.J. No. 32, 2007 SCC 32 (S.C.C.). See also *R. v. Waterfield*, [1963] 3 All E.R. 659 (C.C.A.); *Knowlton v. The Queen*, [1973] S.C.J. No. 87, 10 C.C.C. (2d) 377 (S.C.C.); *Dedman v. The Queen*, [1985] S.C.J. No. 45, 20 C.C.C. (3d) 97 (S.C.C.); *R. v. Godoy*, [1998] S.C.J. No. 85, 131 C.C.C. (3d) 129 (S.C.C.).

<sup>6</sup> *Brown v. Durham (Regional Municipality) Police Force*, [1998] O.J. No. 5274, 21 C.R. (5th) 1 (Ont. C.A.) [Brown].

<sup>7</sup> *R. v. Ferris* (1998), 16 C.R. (5th) 287 at 296-99, 126 C.C.C. (3d) 298 (B.C.C.A.).

<sup>8</sup> *R. v. Dedman*, [1985] 2 S.C.R. 2.

<sup>9</sup> See *R. v. Gibbons*, [2008] O.J. No. 5036 & *Brown supra* note 6.

## Investigative Report

be apprehended from the continuance or renewal of the breach of the peace.<sup>9</sup>

31. (1) Every peace officer who witnesses a breach of the peace and every one who lawfully assists the peace officer is justified in arresting any person whom he finds committing the breach of the peace or who, on reasonable grounds, he believes is about to join in or renew the breach of the peace.
- (2) Every peace officer is justified in receiving into custody any person who is given into his charge as having been a party to a breach of the peace by one who has, or who on reasonable grounds the peace officer believes has, witnessed the breach of the peace.<sup>10</sup>

### ***Identifying a Breach of Peace:***

*There is a breach of the peace whenever harm is actually done or is likely to be done to a person or in his presence to his property or a person is in fear of being so harmed through an assault, an affray, a riot, unlawful assembly or other disturbance. R. v. Howell (1981).*

The concept of "breach of the peace" is not statutorily defined. It is an act or actions that result in actual or threatened harm to another person.<sup>10</sup> Generally, a breach of the peace involves some disturbance or threat or tumultuous and riotous activity.<sup>11</sup> In *Frey v. Fedoruk et al.* [1950] S.C.R. 517, the Supreme Court of Canada affirmed that the breach of the peace can refer to riots, tumults and actual physical violence; and, "any disturbance of the tranquillity of people, which if not punished, will naturally lead to physical reprisals, with wider and more aggravated disturbances of the King's Peace".

In case law, "breach of the peace" is a generic term and there seems to be a range of possible activities that may constitute a breach of the peace. A breach of the peace does not include any and all conduct which right thinking members of the community would regard as offensive, disturbing, or even vaguely threatening. A breach of the peace contemplates an act or actions which result in actual or threatened harm to someone. The core notion of a breach of the peace is a violent disruption or disturbance of the public tranquillity, peace or order.<sup>12</sup>

<sup>10</sup> See *R. v. Gibbons*, [2008] O.J. No. 5036 & *Brown supra* note 6.

<sup>11</sup> *Irving v. Canada (Royal Canadian Mounted Police)*, [2000] B.C.J. No. 424 (B.C.S.C.); *Francis v. Miramichi (City)*, [2000] N.B.J. No. 130 (N.B.Q.B.); *Hayes v. Thompson* (1985), 18 C.C.C. (3d) 254 (B.C.C.A.); *R. v. White*, [1994] O.J. No. 1766 (Ont. Ct. (Gen. Div.)); *Beatty v. Gillbanks* (1882), 9 Q.B.D. 308.

<sup>12</sup> *R. v. Gosai* [2002] O.J. No. 359 (Sup. Ct.) & *Woods v. Vancouver (City)*, [2009] B.C.J. No. 2046.

## Investigative Report

The common law provides a police officer with the power to arrest a person in order to prevent an apprehended breach of peace, if the officer honestly and reasonably believes there is a real risk of imminent harm.<sup>13</sup> A preventative arrest is justified if there is an objective basis for believing that a breach of the peace will occur or will be renewed.<sup>14</sup> Even if the officer is mistaken in the belief that a breach of the peace is imminent, the arrest will be lawful if that belief is honestly held, and based on reasonable grounds<sup>15</sup>.

### ***Arrest Procedures for Breach of Peace:***

Section 495(1) of the Criminal Code authorizes a police officer to arrest without a warrant only where the officer has reasonable grounds for believing that the person has committed or is about to commit an indictable offence, or where a person is found committing a criminal offence. Individual rights under the Charter would subsequently apply upon arrest or detention. It is worth noting that the Ontario court in *Brown*, affirmed that "neither the power to arrest in anticipation of the commission of an indictable offence nor the power to arrest for an apprehended breach of the peace is meant as a mechanism whereby the police can control and monitor on an ongoing basis the comings and goings of those they regard as dangerous and prone to criminal activity."<sup>16</sup>

### ***Short Detention:***

Detentions for breach of the peace must be necessary for the maintenance of the public peace. A lengthy detention is not permitted. At most, a person arrested for breach of the peace can be held for twenty-four hours without being charged.<sup>17</sup> The police will generally be required to release a detainee sooner if the risk of a breach of the peace has passed.<sup>18</sup> Given the liberty concerns that arise in the context of preventive detention, the parameters of the police power to detain for breach of the peace must be clear.

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<sup>13</sup> *R. v. Morin*, [2010] A.J. No. 1070. See also *Hayes v. Thompson* (1985), 18 C.C.C. (3d) 254 (B.C.C.A.) and *Knowlton v. The Queen* (1973), 10 C.C.C. (2d) 377.

<sup>14</sup> *R. v. Jamieson*, [2009] O.J. No. 5161 & *R. v. Howell* (1981), [1982] Q.B. 416 at 425 (C.A.) [Howell].

<sup>15</sup> *Esmonde*, (2002) *supra* note 1.

<sup>16</sup> *Brown*, *supra* note 6 at 74.

<sup>17</sup> *R. v. Lefebvre* (1982), 1 C.C.C. (3d) 241 at 244 (B.C. Co. Ct.), *aff'd* (1984), 15 C.C.C. (3d) 503 (B.C.C.A.).

<sup>18</sup> See *R. v. Grosso*, [1995] B.C.J. No. 1802 at para. 55 (B.C. Prov. Ct.).



**Unlawful Assembly: s. 63**

Unlawful assembly

63. (1) An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they

(a) will disturb the peace tumultuously; or

(b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.

Lawful assembly becoming unlawful

(2) Persons who are lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in a manner that would have made the assembly unlawful if they had assembled in that manner for that purpose.

***Common Purpose Required:***

An unlawful assembly is an assembly of three or more persons who, assemble with intent to carry out a common purpose, assemble in such a manner to cause persons near by to fear, on reasonable grounds, that they will disturb the peace tumultuously; or will needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.<sup>19</sup> Every member of an unlawful assembly is guilty of an indictable offence and liable to one year's imprisonment.

Case law surrounding unlawful assembly prioritizes the protection of the public order. In *R. v. Patterson*, [1931] 3 DLR 267 the Ontario Court of Appeal, explained that "no matter how worthy the cause, or how clear the right to be asserted may be, our law requires the worthy cause to be advocated and the right to be asserted in a peaceable way, and not by riot and tumult". The Court also explained that the provision is to "secure orderly and peaceable conduct upon the streets, and to avoid tumultuous conduct of assembled crowds".

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<sup>19</sup> *R. v. Patterson*, [1931] 3 DLR 267.

***Reasonable Person:***

Even if the object of those who assemble is innocent or highly commendable, if the circumstances lead a reasonable person to fear that the public peace is in danger, then it is the duty of those assembled to disperse.

**Reasonable Grounds**

R v. Storrey is the leading authority on what constitutes reasonable grounds. To summarize, the definition of Reasonable Grounds is:

*A set of fact or circumstances which would satisfy an ordinary, cautious and prudent person that there is reason to believe an offence has been committed and which goes beyond mere suspicion.*<sup>20</sup>

**The Charter**

The Canadian Charter of Rights and Freedoms protects the individual interests of citizens against state power or interference. It is the supreme law of Canada and used to determine the validity of all other laws. The Charter only applies to agents of the state. Anyone whose Charter rights have been infringed may apply to the courts for an appropriate remedy under s. 24. Since police officers are agents of the state, the Charter also creates standards for which the court can use to assess policies and procedures of police services and the individual actions of police officers.

In Canada, under the Charter, everyone enjoys significant rights and freedoms. These include the freedom to express ourselves, assemble peacefully and associate. These freedoms are guaranteed by the Canadian Charter of Rights and Freedoms. The freedom of expression and the right to peaceful assembly are considered fundamental to the democratic process. The Canadian approach to freedom of expression allows for a wide conception of "expression" and the right to express oneself in public forums. The freedom of expression ensures that people can convey their thoughts and feelings in non-violent ways without fear of censure. The right to

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<sup>20</sup> R vs. Storrey – [1990] 1 S.C.R. 241

peaceful assembly provides protection from state interference with protest activity. The scope of these freedoms, however, is not unlimited. Individuals do not have a constitutional right to express themselves through violent expression or protest threats of violence.<sup>21</sup> Therefore limitations to these rights are restricted to situations where there are reasonable grounds to fear that the protest activity will disturb the peace and/or develop into a riot.

### **Section 9:**

Section 9 of the Charter guarantees that everyone will be accorded the right not to be detained or imprisoned arbitrarily. An officer must be able to give a reason for the detention of someone and that reason must be based on reasonable grounds. The Charter rights found in section 9 and 10 do not arise at every instance or for every person who is stopped or detained by police. Whether there is a detention will depend on a number of factors. Generally, a detention refers to a suspension of a person's liberty by either significant physical or psychological restraint. Psychological detention is established either where the individual has a legal obligation to comply with the restrictive request or demand, or a reasonable person would conclude by reason of the state conduct that he or she had no choice but to comply. In cases where there is no physical restraint or legal obligation, it may not be clear whether a person has been detained.<sup>22</sup> To determine whether the reasonable person in the individual's circumstances would conclude that he or she had been deprived by the state of the liberty of choice, the court will consider several factors including the circumstances and the nature of the police conduct.<sup>23</sup> If a person is detained without legal grounds, that detention is arbitrary. The arbitrariness of detention or imprisonment in the s. 9 context is determined by whether there are appropriate expressed or implied standards that determine whether a power to detain or imprison is exercised.<sup>24</sup>

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<sup>21</sup> *Irwin Toy Ltd. v. Québec (Attorney General)*, [1989] S.C.J. No. 36, [1989] 1 S.C.R. 927 (S.C.C.). *United States of America v. Nadarajah*, [2009] O.J. No. 946, 95 OR (3d) 514 (Ont. S.C.J.); See also *Baier v. Alberta*, [2007] S.C.J. No. 31 (S.C.C.); *Greater Vancouver Transportation Authority v. Canadian Federation of Students — British Columbia Component*, [2009] S.C.J. No. 31; *R. v. Sharpe*, [2001] S.C.J. No. 3 (S.C.C.); *Suresh v. Canada* (Minister of Citizenship and Immigration), [2002] S.C.J. No. 3, [2002] 1 S.C.R. 3 (S.C.C.).

<sup>22</sup> *R. v. Mann* [2004] 3 S.C.R. 59 and *R. v. Grant* [2009] S.C.J. No. 32

<sup>23</sup> *R. v. Grant*, [2009] S.C.J. No. 32 at para. 44 (S.C.C.).

<sup>24</sup> *R. v. Hufsky*, [1988] S.C.J. No. 30; [1988] 1 S.C.R. 621 at 633 (S.C.C.).

***Arrest:***

Arrest means to stop, stay, or restrain the liberty of someone. An arresting officer must subjectively have reasonable grounds on which to base the arrest. Those grounds must, in addition, be justifiable from an objective point of view, such that a reasonable person placed in the position of the officer must be able to conclude that there were indeed reasonable grounds for the arrest. On the other hand, the police need not demonstrate anything more than reasonable grounds.

Not every unlawful arrest necessarily falls within the words "arbitrarily detained" under s. 9 of the Charter of Rights. The grounds upon which an arrest was made may fall short of constituting reasonable and probable cause. The person making the arrest may honestly, though mistakenly, believe that reasonable and probable grounds for the arrest exist and there may be some basis for that belief.

***Detention:***

Detention under ss. 9 and 10 of the Charter refers to a suspension of the individual's liberty interest by a significant physical or psychological restraint. Psychological detention is established either where the individual has a legal obligation to comply with the restrictive request or demand, or a reasonable person would conclude by reason of the state conduct that he or she had no choice but to comply.<sup>25</sup>

***Section 10: Rights to Counsel:***

When an individual is arrested or detained, he or she has the right to be informed promptly of the reasons and to retain and instruct counsel and to be informed of our right to counsel. Recently, the Supreme Court of Canada clarified that the right to counsel arises immediately upon detention, even if the detention is solely for investigative purposes.<sup>26</sup>

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<sup>25</sup> *R. v. Grant* [2009] S.C.J. No. 32.

<sup>26</sup> *R. v. Grant* [2009] S.C.J. No. 32.

## **Investigative Report**

Section 10(b) provides for a right "to retain and instruct counsel without delay and to be informed of that right". This right seeks to ensure that those detained both know that they have a right to counsel and have access to their right to counsel. It protects detainees against restrictions on their liberty, and it helps detainees to avoid self-incrimination.<sup>27</sup>

### **Other Referenced Information**

- 1. Police Services Act – Ontario Regulation 123/98 - Code of Conduct.**
- 2. Toronto Police Service Policy & Procedure – Arrest & Release.**
- 3. G20 Operational Plan and Toronto Police Service Procedures**
- 4. Toronto Police Service Policy & Procedure – Use of Force & Equipment.**
- 5. Ontario Use of Force Model.**
- 6. The following sections of Criminal Code of Canada were reviewed:**
  - i. Section 25 – Protection of Persons Acting Under Authority
  - ii. Section 26 – Excessive Force
  - iii. Section 129 – Offences Relating to Public or Peace Officer
  - iv. Section 266 – Assault
  - v. Section 270 – Assault Police Officer
  - vi. Section 264.1 – Uttering Threats

<b>Investigators</b>
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Grant Wilkinson – OIPRD Investigator

Laurie Ioannou – OIPRD Investigator

<b>Supervisor/Manager</b>
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Rodney Braun – G20 Project Manager

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<sup>27</sup> *R. v. Suberu*, [2009] S.C.J. No. 33, 309 D.L.R. (4th) 114 at para. 40 (S.C.C.).

